

Sunset Public Hearing Questions for
**Statewide Planning and Policy Council for the
Department of Intellectual and Developmental Disabilities**
Created by Section 33-5-601, *Tennessee Code Annotated*
(Sunset termination June 2013)

1. Provide a brief introduction to the council, including information about its purpose, statutory duties and staff.

The Statewide Planning and Policy Council (SPPC) for the Department of Intellectual and Developmental Disabilities (DIDD) was created in the TCA in conjunction with DIDD becoming a full department effective January 2011. The membership was not formalized until January 2012. Pursuant to the TCA, the purpose of the SPPC is to assist in planning a comprehensive array of high quality prevention, early intervention, treatment, and habilitation services and supports and to advise the department on policy, budget requests, and developing and evaluating services and supports.

The statutory duties include: advising the commissioner as to plans and policies to be followed in the service systems and the operation of the department programs and facilities, recommending to the general assembly legislation and appropriations for the programs and facilities, advocating for and publicizing the recommendations, and publicizing generally the situation and needs of persons with intellectual or developmental disabilities and their families. The TCA also directs the SPPC to focus on:

- (1) Identification of common areas of concern to be addressed by the service areas;
- (2) The needs of service recipients who are children or elderly and of service recipients with combinations of intellectual or developmental disabilities and other conditions;
- (3) Evaluation of needs assessment, service, and budget proposals;
- (4) Reconciliation of policy issues among the service areas; and
- (5) Annual review of the adequacy of this title to support the service systems.

There are no staff that serve exclusively to the SPPC, however the department provides two staff who help prepare the agendas and minutes of the council meetings, provide relevant DIDD and state information for the council's use, and handle logistics and food planning for meetings.

2. Provide a list of the council members and describe how membership complies with Section 33-5-601(b), *Tennessee Code Annotated*. What criteria were used in selecting the members? Does a majority of the council's membership consist of current or former service recipients and members of service recipient families as required by statute?

	Council Member	How compliant with TCA 33-5-601(b)
1.	Senator Rusty Crowe	601(b)(1): Appointed by the Speaker of the Senate
2.	Rep. Jeremy Faison	601(b)(1): Appointed by the Speaker of the House of Representatives
3.	Mr. John Germ	601(b)(2): Appointed by the DIDD commissioner as an at-large representative
4.	Dr. Ralf Habermann	601(b)(2): Appointed by the DIDD commissioner as a representative for elderly service recipients
5.	Ms. Cynthia Leatherwood	601(b)(2): Appointed by the DIDD commissioner as a representative for others affected by IDD issues
6.	Mr. James Martin	601(b)(2): Appointed by the DIDD commissioner as a representative for children
7.	Mr. Mike McElhinney	601(b)(1): Appointed by the Governor as the chair
8.	Ms. Sheila Moore	601(b)(2): Appointed by the DIDD commissioner as a representative for persons served and families of persons served
9.	Mr. Donald Redden	601(b)(1): Appointed by the Governor as an at-large representative
10.	Mr. Kevin Scholls	601(b)(2): Appointed by the DIDD commissioner as a representative for persons served and families of persons served
11.	Ms. Laura Tumminello	601(b)(2): Appointed by the DIDD commissioner as a representative for IDD providers

What criteria were used in selecting the members?

The initial pool of applicants included individuals from the following sources:

- ~ persons who previously served on the statewide developmental disabilities planning and policy council under the Department of Mental Health, which had been disbanded upon the creation of the Department of Intellectual and Developmental Disabilities;
- ~ individuals who made contact with the Commissioner's office to volunteer to serve on DIDD-related councils, workgroups, or committees;
- ~ persons recommended to the Commissioner's office by DIDD staff to serve on the Statewide Planning and Policy Council, or on the four other Planning and Policy Councils designated in the TCA; and
- ~ persons who served on the DIDD Advisory Council.

In addition, internet research was done by the Director of Project Management to find individuals who met the criteria for some specific appointments named in the TCA, such as representative for children, as well as individuals who were in particular fields, such as traumatic brain injury, that DIDD would want to consider for participation.

Finally, when a list was pulled together of potential appointments, it was reviewed by senior DIDD management. Interest forms were sent out and final appointments were made after the responses were considered for professional and personal expertise in the intellectual or developmental disabilities (IDD)

field, geographic region, gender, ethnicity and personal or familial experience with having an intellectual or developmental disability.

Does a majority of the council's membership consist of current or former service recipients and members of service recipient families as required by statute?

While the Tennessee Code specifically asked for "current or former service recipients and members of service recipient families", DIDD elected to expand that to include all persons with intellectual or developmental disabilities or their family members. The intent of this deviation was to include all people who are eligible for services, but who may not necessarily be receiving them directly from DIDD at this time, such as people on the waiting list or people with developmental disabilities for which DIDD has not yet begun providing services. In regards to the question above, yes, a majority of the eleven council members are either a person with an intellectual or developmental disability, or a family member of a person with an intellectual or developmental disability.

3. How many times has the council met during fiscal years 2011 and 2012, and how many members were present at each meeting? Has the council met the statutory requirement at Section 33-5-601(d), *Tennessee Code Annotated*, to meet quarterly?

As the Department was only established in the middle of FY 2011, the SPPC appointments were not made until FY 2012. The first meeting was held in February 2012 and nine of the eleven members were present. The next quarterly meeting is set for May 2012.

4. What per diem or travel reimbursement do members receive? How much was paid to council members during fiscal years 2011 and 2012?

Council members are reimbursed for mileage, or the cost of travel to and from the meeting as appropriate, upon request. For the first meeting, only one member requested travel reimbursement and \$130.66 was paid.

5. What were the council's revenues (by source) and expenditures (by object) for fiscal years 2011 and 2012?

There are no revenues associated with the SPPC.

There were no expenditures in FY 2011. In FY 2012:

- ~ \$130.66 was spent for travel reimbursement;
- ~ \$269.38 in food, drink and supplies; and
- ~ \$31 for the cost of binders for council members and ex-officio council members. In addition, there would be the cost of on-hand paper and divider supplies for the binders and meeting handouts.

6. How does the council ensure that it is operating in an impartial manner and that there is no conflict of interest?

The Council makes systemic recommendations to the department, but not determinations for department actions. All recommendations are reviewed carefully by the department, including to insure that none were submitted for personal gain by any member, to consider if they are appropriate and feasible to implement.

7. What have been the primary activities of the council during fiscal years 2011 and 2012? Specifically, what has the council accomplished during that time to carry out each of the duties assigned to the council at Section 33-5-602, *Tennessee Code Annotated*?

The SPPC has had one meeting in February 2012 and has one set for May 16, 2012. At the February meeting, the time was spent giving members an introduction to the department and discussion of the council's purpose and coordination with the other planning and policy councils required by TCA 33-2-202. Between these two meetings, the council will have discussed the issue of how children with IDD transition into adult services, the DIDD strategic plan (as directed in TCA 33-2-202), and waiver services. Future meetings in this calendar year will include planning for the FY 13-14 DIDD budget, consideration of a need for any legislation, and preparing the first annual report.

8. Is the council subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the council have for informing the public of its meetings and making its minutes available to the public?

Yes. Public notice of the meetings and the subsequent meeting minutes are posted on the TN.gov website in the Public Participation Calendar. There is also a link to this calendar from the DIDD website in a section about the SPPC.

9. Describe any items related to the council that require legislative attention and your proposed legislative changes.

As referenced in the response to question #2, DIDD believes the references to “current or former service recipients” and “members of service recipient families” should be changed to allow individuals not receiving services from DIDD to be eligible to participate.

DIDD also suggests reducing the longevity of the terms from three years to two years, and reduce half of the currently appointed members’ terms to the two years so that half of the seats are vacated in 2014 and the other half in 2015. This would allow for staggered terms, ease the transition between new and old members, and allow continuity of council work efforts.

Finally, we also suggest addressing whether members can serve more than one term and added a sentence for this proposed change.

In light of Governor Haslam’s focus on increased efficiency, DIDD feels that rather than having four additional planning and policy councils as required by TCA 33-2-202, that these constituencies could be well represented on the SPPC. DIDD was created with the intention of serving both people with an intellectual disability or other developmental disabilities (DD) and the two no longer need to be separated as when DD was under the Department of Mental Health. We would suggest making sections 33-2-202 and 33-2-203 exclusive to the Department of Mental Health and remove the requirement for a “Developmental Disabilities Planning and Policy Council.” The Statewide Planning and Policy Council could be expanded by two members from the DD council, and two members from each of the three regional Planning and Policy Councils. This would provide adequate regional and developmental disabilities representation.

Please see the attached proposed redline version of changes suggested for TCA 33-5-601 and then suggested changes for TCA 33-2-202 to remove the additional DIDD planning and policy councils.

10. Should the council be continued? To what extent and in what ways would the absence of the council endanger the public health, safety or welfare?

As the council has just begun its efforts, DIDD does believe it should be continued to allow the department the benefit of the input of this excellent group of individuals. There are quite a few changes underway, most notably as DIDD starts to plan services for individuals with developmental disabilities other than an intellectual disability, and the state would be well served by having the SPPC provide recommendations. The absence of the council would not endanger the public health, safety or welfare, but its continuation would enhance it for Tennesseans with IDD and their families.

11. Please list all council programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

While the Council does not receive direct federal financial assistance, they are included within the department's Title VI Implementation Plan. See Section 12.6.1 of the DIDD Plan which references the Statewide Planning and Policy Council (SPPC).

[Federal financial assistance includes:

- (1) Grants and loans of Federal funds,
- (2) The grant or donation of Federal Property and interests in property,
- (3) The detail of Federal personnel,
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- (5) Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

28 C.F.R. Sec. 42.102(c)]

[The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

28 C.F.R. Sec. 42.102(f)]

If the council does receive federal assistance, please answer questions 12 through 20. If the council does not receive federal assistance, proceed directly to question 18.

12. Does your council prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

Attached is the DIDD Title VI Implementation plan. While referenced appendixes do not relate directly to the SPPC, they are available upon request.

13. Does your council have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

Brenda D. Clark is the Title VI coordinator for DIDD. Please reference the DIDD Title VI Implementation plan, Section 3.2 on page 23, for a description of her duties.

14. To which state or federal agency (if any) does your council report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted.

DIDD shares its Title VI Implementation Plan with the Human Rights Commission on an annual basis, in accordance with TCA 4-21-203. Please reference the Title VI Implementation Plan for further details.

15. Describe your council's actions to ensure that council staff and clients/program participants understand the requirements of Title VI.

Please reference the DIDD Title VI Implementation plan, Section 12.4 on page 66, for further details.

16. Describe your council's actions to ensure it is meeting Title VI requirements. Specifically, describe any council monitoring or tracking activities related to Title VI, and how frequently these activities occur.

Please reference the DIDD Title VI Implementation plan for further details.

17. Please describe the council's procedures for handling Title VI complaints. Has your council received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

The council has not received any Title VI complaints to date. Please reference the DIDD Title VI Implementation plan, Section 8 on page 46, for the complaint procedure.

18. Please provide a breakdown of current council staff by title, ethnicity, and gender.

There are no council staff.

In regards to the eleven council members, who have been appointed by either the Governor, the Commissioner, or the Speakers of the Senate or House:

18% are African-Americans, and 82% are Caucasian; and
27% are female, and 73% male.

19. Please list all council contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

Not applicable.

20. Describe how the council ensures that minorities are included in needs assessments or any other discussions regarding program needs.

Please reference the DIDD Title VI Implementation plan, Section 12.8 on page 71, for further details.

As with any other issue, the council may request data from the department concerning minority providers and/or the needs of minority persons with an intellectual or other developmental disability.

Suggested changes to the TCA in regards to DIDD Planning and Policy Councils (*make this section exclusive to the Dept. of Mental Health, and add eight council member seats to the DIDD SPPC to represent the regions and developmental disabilities*)

Title 33 Mental Health and Intellectual and Developmental Disabilities
Chapter 2 Services and Facilities
Part 2 Service System Assessment and Planning

33-2-202. ~~Developmental disabilities planning and policy, mental~~ Mental health planning and policy, and regional planning and policy councils established.

The department shall establish ~~a state developmental disabilities planning and policy council,~~ a state mental health planning and policy council, and regional citizen-based planning and policy councils composed of service recipients, family members of service recipients, service recipient advocates for children, adults, and the elderly, service providers, and other affected persons and organizations for the department's service areas. The councils shall:

(1) Advise the statewide planning and policy council on the three-year plan, including the desirable array of prevention, early intervention, treatment, and habilitation services and supports for service recipients and their families, and such other matters as the commissioner or the statewide planning and policy council may request; and

(2) Provide information and advice to the department on policy, formulation of budget requests, and development and evaluation of services and supports.

HISTORY: Acts 2000, ch. 947, § 1.

Suggested changes to the TCA in regards to the Statewide Planning and Policy Council (*additional seats in section b(2) are contingent on removing DIDD councils from TCA 33-2-202*)

33-5-601. Statewide planning and policy council created -- Chair -- Officers -- Membership -- Expenses -- Meetings -- Terms of service -- Removal.

(a) There is created the statewide planning and policy council for the department of intellectual and developmental disabilities to assist in planning a comprehensive array of high quality prevention, early intervention, treatment, and habilitation services and supports and to advise the department on policy, budget requests, and developing and evaluating services and supports.

(b) (1) The statewide planning and policy council shall be composed of not less than ~~eleven~~ nineteen (19) members, not including ex officio members. The governor shall appoint the chair of the council. The speaker of the senate and the speaker of the house of representatives shall each appoint one (1) legislator as a member of the council. The commissioner of intellectual and developmental disabilities shall serve, ex officio, as secretary to the council and, if the chair is not present at a meeting, shall designate a member to serve as chair for the meeting. The governor is ex officio a member of the council and may appoint representatives of state agencies as ex officio members of the council. The governor shall appoint one (1) at-large representative.

(2) The commissioner of intellectual and developmental disabilities shall appoint ~~five-thirteen~~ (13) members to represent intellectual and developmental disabilities, of which, ~~two-four~~ (4) shall be ~~service recipients~~ persons with an intellectual or developmental disability or ~~family~~ members of families of service recipients persons with an intellectual or developmental disability, including one per DIDD region ; one (1) shall be a representative for children; ~~one three~~ (3) shall be ~~a~~ intellectual and developmental disabilities service providers, ~~one per~~ DIDD region; one (1) shall be a health care professional; ~~three (3) shall represent an entity or provider that has expertise in developmental disabilities other than an intellectual disability;~~ and one (1) shall represent others affected by intellectual and developmental disability issues. Additionally, the commissioner of intellectual and developmental disabilities shall appoint one (1) representative for elderly service recipients and at least one (1) at-large representative.

(3) At least a majority of the council's membership shall consist of ~~current or former service recipients~~ persons with an intellectual or developmental disability and ~~family~~ members of service recipient families persons with an intellectual or developmental disability.

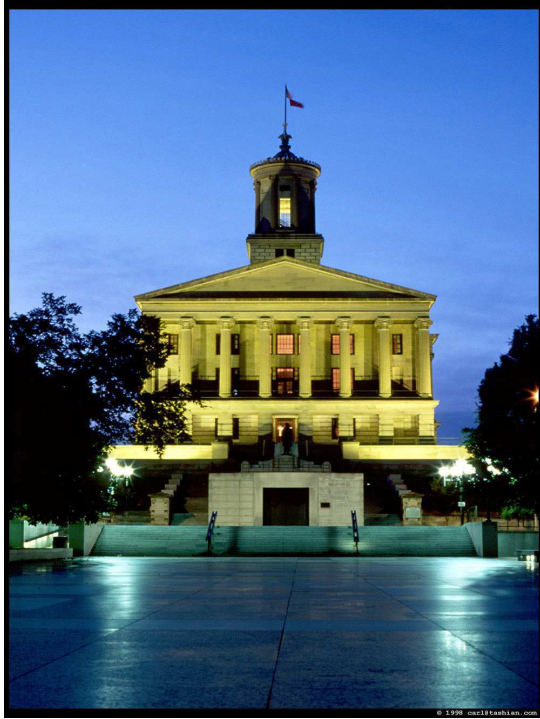
(c) The members of the statewide planning and policy council shall receive no compensation.

(d) The statewide planning and policy council shall meet quarterly at a place designated by the chair and may meet more often upon the call of the chair or a majority of the members.

(e) Terms on the council shall be ~~three (3) years except that the chair and members appointed by the speakers shall have terms of~~ two (2) years. The initial membership can be equally divided with terms of two and three years to allow for staggered vacancies and continuity between expired terms. A person may serve up to two (2) terms.

(f) The appointing authority may remove a member for failure to attend at least one half (1/2) of the scheduled meetings in any one-year period or for other good cause.

HISTORY: Acts 2010, ch. 1100, § 44.



**State of Tennessee
DEPARTMENT
OF
INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES**

**Implementation Plan
For
*Title VI of the Civil Rights Act of 1964***

October 1, 2011

**Commissioner: James M. Henry
Title VI Director: Brenda Clark**

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1. OVERVIEW

Purpose: *The department or agency shall provide an overview of its operations and organizational structure to ensure that the nondiscrimination policy will be implemented throughout the entire organization.*

This plan represents the Department of Intellectual and Developmental Disabilities' (DIDD) commitment to nondiscrimination and compliance with Title VI of the Civil Rights Act of 1964 (Title VI). Title VI applies to a program even if federal funds comprise only a portion of the program's budget. The act is a service delivery oriented statute, meaning that the emphasis is on services provided by a government agency to the citizens of a given area. If federal funds are used directly or indirectly to provide services, then Title VI applies and services must be delivered in a nondiscriminatory manner.

1.1. Purpose

The purpose of this Plan is to meet the implementation planning and annual reporting requirements of *Tennessee Code Annotated, §4-21-203, et seq.* This document is designed to detail Department of Intellectual and Developmental Disabilities' efforts and strategies to foster the intent of and ensure compliance with *Title VI of the Civil Rights Act of 1964*.

1.2. Period Covered - 2010-2011

The Department of Intellectual and Developmental Disabilities' process for ensuring and reviewing compliance with *Title VI of the Civil Rights Act of 1964* has been assessed. Consequently, DIDD has affected an approach of action emphasizing the provision of technical assistance, training, outreach and monitoring to its beneficiaries.

1.3. Applicability - Department and Service Provider Programs

Title VI of the Civil Rights Act of 1964 applies to all recipients and subrecipients of federal financial assistance. Federal financial assistance includes grants, training, use of equipment, surplus property, and various other assistances. Recipients of federal funds range from state and local agencies to nonprofit agencies and other organizations. If federal funds are passed from one recipient to a subrecipient, the subrecipient is required to comply with Title VI of the Civil Rights Act of 1964.

As a subrecipient of federal financial assistance, DIDD must comply with the requirements of *Title VI of the Civil Rights Act of 1964* are applicable to all of the operations of DIDD and to any entity to which department funded financial assistance is extended. (*United States Code, §2000d-4a*)

Accordingly, the charge -

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (*United States Code, §2000d*)

- is applicable to all programs, facilities, activities, and operations of the Department of Intellectual and Developmental Disabilities and all contractors who provide services and supports to them.

1.4. DIDD Nondiscrimination Policy

What is the agency's nondiscrimination policy/statement or guidelines?

As a subrecipient of federal financial assistance, the Department of Intellectual and Developmental Disabilities (DIDD) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, disability, color, or national origin in the admission to, participation in or receipt of the services and benefits of any of its programs and activities, whether carried out by DIDD directly or through a contractor or any other entity with whom DIDD arranges to carry out its programs and services.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Regulations of the U.S. Department of Health and Human Services issued pursuant to these statutes at Title 45 Code of Federal Regulations (CFR) Parts 80, 84, and 91.

1.4.1 Prohibited Practices

Prohibited practices (either by agency or service provider staff) include, but are clearly not limited to, the following:

- Denying any individual any service, opportunity, or other benefit for which he or she is otherwise qualified,
- Providing any individual with any service or other benefit, which is different or is provided in a different manner from that which is provided to others under the program,
- Subjecting any individual to segregated or separate treatment in any manner related to his or her receipt of service,
- Restricting any individual in any way in the enjoyment of services; or facilities; or any other advantage, privilege, or benefit provided to others under the program,
- Adopting methods of administration that would limit participation by any group of recipients or subject them to discrimination,
- Addressing an individual in a manner that denotes inferiority because of race, color, or national origin, and
- Subjecting any individual to incidents of racial or ethnic harassment or the creation of a hostile racial or ethnic environment.

1.4.2 Non-Compliance

1. Any service provider found to be in non-compliance with Title VI will be given a written notice. Failure to eliminate further discrimination within 90 days of receipt

of notice will be considered a violation of the terms of the contract and a basis for contract suspension, termination, or rejection.

2. If a state employee is found guilty of any discriminatory practice based on Title VI provisions, the employee may be subject to disciplinary action in accordance with DIDD policy.

1.5. Vision Statement

It is the vision of DIDD that Tennesseans with an intellectual disability will have the opportunity and needed support to be a part of the community in which they live. DIDD believes that persons with intellectual disabilities have a right to healthy, secure, and meaningful lives surrounded by family and friends.

1.6. Mission Statement

Provide a clear and brief description of the department's mission.

The mission of DIDD is to provide leadership in the development and maintenance of a system that offers a continuum of services and supports to persons with intellectual disabilities. DIDD will work to accomplish its mission by recognizing that the values and principles outlined below are the cornerstones of the service delivery system. DIDD staff will act with professionalism, integrity, and honesty to achieve and maintain the credibility that is required to fulfill the organization's mission.

1.7. DIDD Department Objectives

The Department of Intellectual and Developmental Disabilities accomplishes its stated mission by:

- Working in partnerships with community stakeholders to increase opportunities for people with intellectual disabilities to lead good lives in their communities.
- Providing access to services and a choice of available qualified providers.
- Developing individualized plans that reflect the person's abilities, unique needs, expressed preferences, and decisions.
- Ensuring services are provided in a safe and secure environment.
- Ensuring individuals are treated with respect and dignity, and their rights are protected by all entities in the service delivery system through policies and practices.
- Providing appropriate assessment, planning, and health care services.
- Involving service recipients and/or their families in making decisions that affect recipient services through participation on boards and advisory groups or committees.

- Providing opportunities for individuals to develop meaningful relationships and participate in community activities.
- Ensuring that every adult has an opportunity for paid employment as well as other meaningful day activities.
- Recruiting qualified and licensed providers (as required) and ensuring staff are appropriately trained and supervised.
- Implementing policies and ensuring that contract providers are in compliance with requirements.

1.8. Agency Organization

Provide a clear and brief description of the department's structure and operations. Include an organizational chart of the entire department or agency.

The Department of Intellectual and Developmental Disabilities (DIDD) was formerly a division of the Department of Finance and Administration before the Tennessee Legislature established it as a stand-alone department effective January 15, 2011. The Department of Intellectual and Developmental Disabilities is headed by a commissioner who reports to the Governor. The general functions of the department are to coordinate, set standards, plan, monitor, and promote the development and provision of services and supports to meet the needs of persons with intellectual and developmental disabilities in Tennessee. On June 30, 2011, DIDD executive management team included the following individuals:

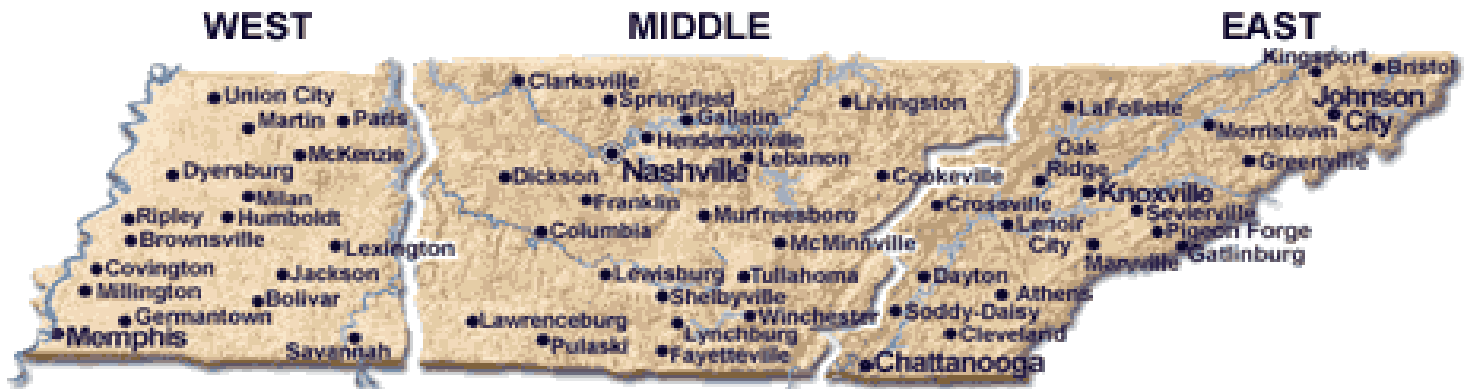
- Commissioner – James M. Henry, White male
- Deputy Commissioner – Vacant
- Executive Administrative Assistant III – Brenda Clark, African-American female
- Executive Administrative Assistant II – Felicia Thompson, African-American female
- Assistant Commissioner II, Administrative Services - Fred Hix, White male
- Assistant Commissioner Community Services – Debbie Payne, White female
- Assistant Commissioner External Affairs and Grants - Joanna Damons, White female
- Assistant Commissioner Policy and Rulemaking – Kathleen Clinton, White female
- General Counsel - Theresa Sloan, White female
- Medical Director – Tom Cheetham, White male
- Executive Administrative Assistant III – Barbara Charlet, White female

- Director of Quality Assurance and Protection from Harm - Pat Nichols, White female
- Legislative Liaison/Communications Director - Missy Marshall, White female

APPENDIX A - DIDD ORGANIZATIONAL CHART

DIDD is divided into three (3) geographic regions and administered out of a central office located in Nashville. A regional director manages administrative duties and staff oversight in each regional office. The department operates two intermediate care facilities for the intellectual disabled (ICF/ID): Clover Bottom Developmental Center in Nashville (Middle) and Greene Valley Developmental Center in Greeneville (East).

EXHIBIT 1 - DIDD REGIONS



East Tennessee Region

Regional Office

John Craven, Director
 Greenbriar Cottage
 5908 Lyons View Drive
 Knoxville, Tennessee 37919
 865-588-0508
 865-594-5180 (Fax)

Service Area: Anderson, Bledsoe, Blount, Bradley, Campbell, Claiborne, Carter, Cocke, Cumberland, Grainger, Greene, Hancock, Hamilton, Hamblen, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union and Washington.

Developmental Center:

Greene Valley Developmental Center
4850 E. Andrew Johnson Highway
P. O. Box 910
Greeneville, Tennessee 37744-0910
(423) 787-6800

Middle Tennessee Region

Regional Office

Dr. Levi Harris, Director
291 Stewarts Ferry Pike
Nashville, Tennessee 37214
615-231-5048

Service Area: Bedford, Cannon, Cheatham, Clay, Coffee, Davidson, DeKalb, Dickson, Fentress, Franklin, Giles, Grundy, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Sequatchie, Smith, Sumner, Stewart, Trousdale, Van Buren, Warren, Wayne, White, Williamson and Wilson.

Developmental Center:

Clover Bottom Developmental Center
275 Stewarts Ferry Pike
Nashville, Tennessee 37214-0500
(615) 231-5000

West Tennessee Region

Regional Office

CJ McMorran, Director
PO Box 949
11437 Milton Wilson Road
Arlington, Tennessee 38002
901-745-7357 or 901-745-7361
901-745-7251(Fax)

Service Area: Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton and Weakley.

2. FEDERAL PROGRAMS OR ACTIVITIES

Purpose: To set forth each program and activity that is operated with federal financial assistance and the dollar amount of the assistance.

2.1. DIDD Programs and Federal Allocation

Tennessee Department of Finance and Administration is designated as the Single State Medicaid Agency for the state of Tennessee. The Bureau of TennCare (TennCare) is the state's medical assistance unit and is located within the Department of Finance and Administration. The TennCare Director, who serves as a Deputy to the Commissioner of the Department of Finance and Administration, is the Medicaid Director. TennCare is accountable for oversight of all Medicaid funds granted by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS).

The Department of Intellectual and Developmental Disabilities (DIDD) is the state agency designated to provide services for individuals in Tennessee with an intellectual or developmental disability. Program services are provided through state appropriations and indirect federal funding through three (3) Section 1915(c) Home and Community Based Services (HCBS) Waiver Programs. The Department of Intellectual and Developmental Disabilities is the operational lead agency for all three HCBS Waiver Programs. The largest of the three waivers, the Statewide Home and Community Based Services Waiver for the Intellectually and Developmentally Disabled (0128.R04), serves as an alternative to institutional care in an intermediate care facility for the Intellectually Disabled (ICF/ID). The waiver program provides a broad range of residential, day, therapy, respite, personal assistance, and other services (e.g., environmental accessibility modifications and specialized equipment, supplies, and assistive technology). The Statewide Waiver had a census of 6,126 on June 30, 2011. The second waiver, commonly referred to as the Arlington Waiver (0357.R02), was designed specifically to provide waiver-funded services to class members protected by the Arlington Remedial Order. The Arlington Waiver had a census of 332 on June 30, 2011. The third waiver, commonly referred to as the Self-Determination Waiver (0427.R01), serves Tennesseans with intellectual disabilities that have moderate service needs that can be satisfactorily met with a cost-effective array of home and community-based services that complement other supports available to them in their homes and the community. Established as an Independence Plus Waiver, this program offers participants the ability to manage a budget of up to \$30,000 (with emergency increases up to \$36,000), using the services of a contracted fiscal employer agent. The Self-Determination Waiver had a census of 1,166 on June 30, 2011. For individuals not participating in the Self-Determination Waiver, services are delivered through a statewide network of some 379 contracted HCBS provider agencies.

The department operates two (2) intermediate care facilities for the intellectually disabled (ICFs/ID) located in the middle and eastern regions of the state. In Middle Tennessee, Clover Bottom Developmental Center is scheduled to close in 2012. As of June 30, 2011, there were forty-seven (47) individuals residing at Clover Bottom, with an additional six (6) people at Harold Jordan Center, a state-operated forensic center on the Clover Bottom campus. Greene Valley Developmental Center in the eastern region of the state will remain open for now but is undergoing census reduction—with 197 residents as of June 30, 2011.

Arlington Developmental Center in West Tennessee, which at its maximum occupancy served approximately 643 residents, was closed in October 2010. All remaining residents were successfully transitioned into other residential settings. While many residents were transitioned into community residences in the State's HCBS waivers or into smaller private ICFs/ID, forty-

eight (48) of the most medically fragile residents were moved into twelve (12) state-operated ICF/ID homes located throughout the surrounding community, serving four (4) individuals per residence.

There are five (5) state-operated ICF/ID homes in East Tennessee with capacity to serve up to twenty people (four per residence). As DIDD moves forward with its efforts to close and significantly downsize large congregate institutions, DIDD plans to develop another nine (9) four-bed state-operated ICF/ID homes in the middle region, and another eleven (11) homes in the eastern region in order to facilitate transition for the most medically fragile residents or those with the most intensive behavior support needs.

The Department of Intellectual and Developmental Disabilities' operational budget for Fiscal Year (FY) 2011 is \$815,738,600. This total budget is comprised of the following:

- State Appropriation
- Interdepartmental Revenue (Medicaid Waivers)
- Current Services Revenue
- Direct Federal Funding
- Reserves for Information Technology

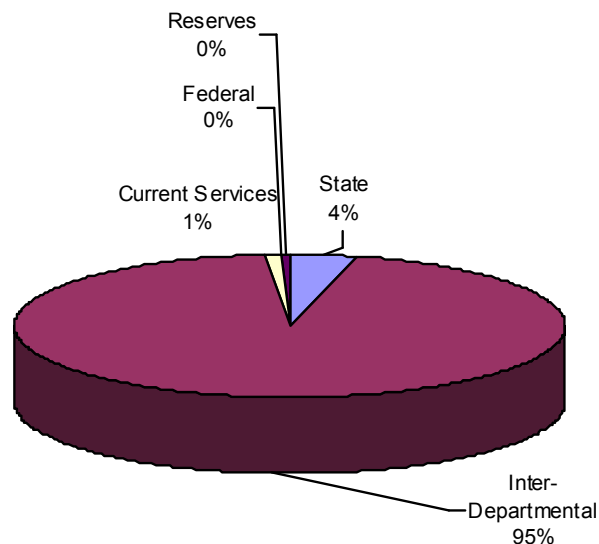


EXHIBIT 2 — DIDD BUDGET (FY 2011)*From FY 2011-2012 Budget Document*

		Inter - Departmental				
	State	Waivers Medicaid /ICF	Current Service	Federal	Reserves	Total
Central Office	\$1,305,800	\$12,066,300	0	0	\$3,616,000	\$16,988,100
DD Council	220,600	193,400	0	1,768,900	0	2,182,900
Community Service	16,155,200	589,174,000	158,400	0	0	605,487,600
Quality Assurance	844,400	7,609,500	0	0	0	8,453,900
Major Maintenance	100,000	0	0	0	0	100,000
West TN Regional Office	1,761,700	16,454,300	0	0	0	18,216,000
West TN Resource Center	0	5,367,700	0	0	0	5,367,700
West TN Community Homes	0	13,535,000	56,300	0	0	13,591,300
Middle TN Regional Office	1,187,400	10,668,000	0	0	0	11,855,400
Clover Bottom Developmental Center	250,100	31,941,200	1,071,300	0	0	33,262,600
Harold Jordan Center	7,104,700	0	0	0	0	7,104,700
East TN Regional Office	1,126,500	10,157,700	0	0	0	11,284,200
East TN Community Homes	354,500	10,619,000	389,800	0	0	11,363,300
Greene Valley Developmental Center	242,700	66,827,900	3,410,300	0	0	70,480,900
Total	\$30,653,600	\$774,614,000	\$5,086,100	\$1,768,900	\$3,616,000	\$815,738,600

2.2. Federal Grants, Loans or Subsidies

Identify each federal grant, loan or subsidy not included in (i) above, that may not be considered a program or activity and the federal dollar amount received for each;

Not Applicable. DIDD did not receive any federal grants, loans or subsidies during the reporting period of July 1, 2010 – June 30, 2011.

2.3. Total Federal Funds and Funding Source

Total dollar amount of all federally funded programs and/or activities.

2.3.1. FY 2011 Direct Federal Financial Assistance

Developmental Disability Council

Federal Funding Source	Federal Grant	Amount of Funding
U.S. Department of Health and Human Services	Developmental Disability Support and Advocacy	\$1,768,900

2.3.2. FY 2011 Indirect Federal Financial Assistance

HCBS Waivers

Federal Funding Source	Interdepartmental Funding	Waiver Type	Amount of Funding
CMS	TennCare	Statewide	\$379,755,600
CMS	TennCare	Arlington	34,740,600
CMS	TennCare	Self Determination	15,147,600
		Administration	32,658,400
		Sub Total	\$462,302,200

ICF/ID

Federal Funding Source	ICF/ID Location	Amount of Funding
Medicaid	Arlington	0
Medicaid	Clover Bottom	\$23,786,100
Medicaid	Greene Valley	49,087,200
Medicaid	West TN Community Homes	9,971,700
Medicaid	East TN Community Homes	7,847,100
	Total	\$90,692,100

Other

Federal Funding Source	ICF/ID Location	Amount of Funding
Medicaid	PASRR	\$363,300

Funding Assistance	Amount of Funding
Total Direct Federal Funding	\$1,768,900
Total Indirect Federal Funding	\$553,357,600
Total Direct and Indirect Federal Funding	\$555,126,500

2.4. Federally Funded Programs with Opportunities for Contracts, Grants, and Request for Proposals

Identify each federally funded program and/or activity with opportunities for contracts, grants and request for proposals, to include the dollar amount allocated for these purposes. Include the total dollar amount available under this category.

The Department of Intellectual and Developmental Disabilities carries out its responsibilities through administrative and program staff as well as through contracted programs. Contracted programs are vital to the department's success in a number of program areas and account for a significant portion of department resources. The three (3) HCBS waiver programs offer a comprehensive array of more than twenty (20) services that are specifically designed to meet the needs of individuals who, if not for these services, would require the level of care provided in an ICF/ID. Two of the three waivers include community-based residential alternatives to institutional placement, including Supported Living, Residential Habilitation, Medical Residential, and Family Model Residential Support. Contract services may include, but are not limited to, the following:

Residential Services - Provides assistance to an individual with intellectual disabilities who is in need of a place to live in the community; provides staff assistance; and adapts homes for special equipment, rental assistance, and independent living training.

Employment Support - Includes employment training, employment services and job retention training.

Day Services - Provides an opportunity for individuals to participate in community activities. Services may include volunteer activities, retirement activities, opportunities to build relationships and natural supports in the community, leisure activities, and the attendance of community events.

Day Habilitation - Provides individual training and support to help people with intellectual disabilities acquire, retain, or improve skills. Services may include day centers and other services for individuals with disabilities. Services can take place in a variety of settings.

Respite - Provides short-term support for the purpose of relieving the family or caregiver to meet planned or emergency needs. Services may be provided in the beneficiary's home, family-based living, institution or ICF/ID (Medicaid certified), group home, licensed respite facility or the home of an approved respite provider.

Family Support Program - Provides financial assistance to fund the purchase of services and equipment needed by qualified families who have children with disabilities and adults with disabilities who live with their families or by themselves.

Health and Therapeutic Supports - May include nursing services; behavioral services; occupational, physical, and speech-language therapy; dental and eye care; and special equipment.

2.5. Applications Submitted for Federal Financial Assistance

List any Federal financial assistance application submitted by the department that is pending with other federal or state departments and/or agencies.

In January 2011, DIDD provided assistance to the Bureau of TennCare (TennCare) by applying for a federal demonstration grant, *"Money Follows the Person Rebalancing Grant Demonstration."* The Deficit Reduction Act (DRA) of 2005 (P.L. 109-171) made several changes to Medicaid policies governing state financing and provision of long-term care services. Among its other provisions, DRA created the Money Follows the Person (MFP) Demonstration program under Section 6071, which authorized \$1.75 billion to support state efforts to move people currently residing in institutions back into their communities and to rebalance their long-term care systems to emphasize home and community-based services (HCBS) rather than institutional placement. The MFP program, administered by the federal Centers for Medicare and Medicaid Services (CMS), is the largest demonstration program of its kind in the history of Medicaid. Section 2403 of the Affordable Care Act (ACA), which President Obama signed into law on March 23, 2010, provided an opportunity for additional states to participate and for those states that were participating in the program to continue building and strengthening their MFP Demonstration Programs. The law amends section 6071 of the DRA to make the following changes:

- 1) Extends the MFP Demonstration Program through September 30, 2016, and appropriates an additional \$450 million for each Fiscal Year (FY) 2012–2016, totaling an additional \$2.25 billion. Any remaining MFP appropriation at the end of each FY carries over to subsequent FYs and is available to make grant awards to current and new grantees until FY 2016. Grant awards will be made available to the states for the FY in which the award was received and for four additional FYs. As such, any unused portion of a state grant award made in 2016 would be available to the state until 2020.
- 2) Expands the definition of who may be eligible for the demonstration to include individuals that reside in an institution for more than ninety (90) consecutive days. However, days that an individual resided in the institution for the sole purpose of receiving short-term rehabilitation services will not be counted toward the ninety (90)-day required period.

CMS has awarded MFP grants to forty-three (43) states and the District of Columbia, allocating over \$2 billion so far. The program's objectives are as follows:

- **Rebalance** - Increase the use of home and community-based, rather than institutional, long-term care services.
- **Ensure Money Follows the Person** - Eliminate barriers or mechanisms, whether in the state law, the state Medicaid plan, the state budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-

eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

- **Assure Continuity of Service** - Increase the ability of the state Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.
- **Ensure Quality Assurance and Quality Improvement** - Ensure that procedures are in place (at least comparable to those used in the qualified home and community-based program) to assure the quality of home and community-based services provided to MFP participants and to improve continuously the quality of such services.

TennCare submitted an application to the Centers for Medicare and Medicaid Services for a demonstration grant in January 2011. TennCare received an award notification in February 2011. The total grant award was \$119,624,597. TennCare will contract with the Department of Intellectual and Developmental Disabilities to perform day-to-day transitional activities for demonstration program participants with an intellectual or developmental disability. Tennessee's MFP demonstration will include the same two (2) target populations currently covered under the State's existing Home and Community Based Services programs:

- ✚ Persons with intellectual disabilities who qualify for and need the level of care provided in an Intermediate Care Facility for persons with an Intellectual Disability (ICF/ID), and
- ✚ Persons age sixty-five (65) and older, and adults age twenty-one (21) and older with physical disabilities who qualify for and need the level of care provided in a nursing facility (NF).

Tennessee's MFP Demonstration and rebalancing initiatives will assist a total of 2,225 eligible individuals with, at least, a ninety (90)-day consecutive inpatient stay in any combination of a hospital, nursing facility, and/or an ICF/ID (not including Medicare-reimbursed short-term rehabilitation stays) in transitioning from an ICF/ID or NF to a qualified residence during the course of the project.

Project numbers are based on a projected implementation date of October 1, 2011, allowing time for final approval of the State's Operational Protocol and for completion of information technology (IT) modifications necessary to facilitate reporting requirements.

The numbers for individuals with an intellectual disability reflect the State's continued efforts to downsize Greene Valley Developmental Center.

Projected Persons Transitioning by Target Group During Demonstration Years							
	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	Totals
Elderly	27	206	261	261	234	206	1195
Physically Disabled	23	169	214	214	191	169	980
Intellectually Disabled (ID)	5	16	14	12	2	1	50
Totals	55	391	489	487	427	376	2225

Tennessee's MFP Demonstration and rebalancing initiatives will increase Medicaid HCBS spending across Long Term Care programs and services. Projected expenditures under each of DIDD three (3) Section 1915(c) Waivers are based on proposed modifications to certain waiver services, as well as on calendar year 2010 trends in service requests and authorizations. Projected expenditures for years beyond the period for which each waiver is approved are trended forward for each year of the demonstration at a rate of 3 percent. In addition, continued HCBS for demonstration participants who will enroll upon conclusion of their 365-day demonstration period have been added for all applicable demonstration years.

Qualified expenditures are projected for the demonstration as shown in the table below.

Projected Qualified HCBS Expenditures During Baseline and Demonstration Years (Including state and federal funds)							
	Baseline CY 2009	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016
1915(c) Statewide ID Waiver (#0128.R04)	451,563,654	482,777,475	483,844,075	485,202,301	486,390,748	500,842,006	517,019,451
1915(c) Arlington ID Waiver (#0357.R02)	43,276,408	48,080,683	47,465,926	47,465,926	47,465,926	48,889,903	50,356,600
1915(c) Self- Determination ID Waiver (#0427.R01)	16,888,767	24,309,565	25,241,186	25,998,421	26,778,373	27,581,724	28,409,175
State Plan HCBS	242,356,000	262,941,360	271,802,520	280,957,545	290,429,040	300,217,005	310,344,045
HCBS share of CHOICES Managed LTC Program	64,856,450	85,772,655	98,638,553	113,434,336	130,449,487	150,016,910	172,519,446
HCBS share of PACE Program	9,522,908	10,102,853	10,405,939	10,718,117	11,039,661	11,370,851	11,711,976

MFP Demonstration (Qualified, Demo & Supplemental)	N/A	806,111	22,023,226	27,348,447	27,173,669	23,549,778	20,712,389
Total	828,464,187	914,790,702	959,421,425	991,125,093	1,019,726,904	1,062,468,177	1,111,073,082
Annual % Increase		10.42%	4.88%	3.30%	2.89%	4.19%	4.57%

DIDD's current efforts toward closure and/or downsizing of its remaining two (2) state developmental centers (i.e., Clover Bottom and Greene Valley Developmental Centers) offer a ready source of potential candidates with intellectual disabilities for transition to the community. Nearly all residents in both facilities will qualify as "eligible individuals" (Medicaid eligible individuals having resided in the facility for at least ninety (90) days) if they transition into a "qualified residence." Eligible individuals residing in other ICF/IDs who want to transition to HCBS will also be permitted to do so, although primary focus will be on the larger, congregate settings. DIDD will be responsible for verifying that individuals are, in fact, eligible for the MFP demonstration project.

DIDD has identified 145 potential project participants with ID residing in NFs, even though such persons have earlier been determined appropriate for NF placement via the state's PASRR determination process. These 145 individuals are members of a certified class determined to meet ICF/ID level of care, reside in the geographic region served by the Arlington Developmental Center (ADC), i.e., West Tennessee; and have been "at-risk" of ICF/ID placement prior to the closure of the ADC pursuant to the terms of the 2006 Settlement Agreement in *United States vs. State of Tennessee*.

It is estimated that 25 percent or thirty-six (36) people will transition into HCBS waivers for persons with ID, with the remainder electing to remain in NFs (in accordance with federal PASRR requirements) or transitioning into HCBS through the CHOICES program, where appropriate.

The MFP program requires that Quality of Life (QoL) surveys be administered and data submitted to CMS national evaluator. The QoL survey is designed to collect information from project participants transitioning out of institutional care as a result of the MFP program and to measure how quality of life is affected by the transition program. The QoL survey assesses MFP participant status across seven domains: living situation, choice and control, access to personal care, respect/dignity, community integration and inclusion, overall satisfaction with life, and health status. The instrument is largely based upon the Participant Experience Survey, with a few items drawn from other instruments. The MFP-QoL survey is designed to be administered at three points in time:

- At "baseline" - after the individual has been accepted into the MFP program but just prior to transition to the community,
- First follow-up conducted eleven (11) months post-transition to the community; and

- Second follow-up conducted twenty-four (24) months post-transition to the community.

The MFP-QoL survey will be administered through in-person interviews with participants or their proxy, using survey and data collection instruments provided by the CMS national evaluator. MFP funding to conduct the surveys is provided at \$100 per survey and 100% administrative funding for administering the QoL survey process and data submission. DIDD will contract with the Arc of Tennessee (People Talking to People) to perform Quality of Life surveys for MFP project participants with ID.

2.6. Projections for Federal Financial Assistance (FY 2011)

Identify any projections for federal funds to be received during the current FY, if applicable.

N/A. There are no projections for additional federal assistance during the current fiscal year.

3. ORGANIZATION OF THE CIVIL RIGHTS OFFICE / CIVIL RIGHTS COORDINATOR

Purpose: *To explain how the department's civil rights office or Title VI program is organized with respect to its enforcement activities.*

The Department of Intellectual and Developmental Disabilities (DIDD), through the Office of Civil Rights (OCR), promotes and ensures that individuals receiving DIDD services have equal access to services and the opportunity to participate in all DIDD-funded programs without facing unlawful discrimination. As the department's civil rights compliance and monitoring unit, OCR carries out its stated mission through investigations, voluntary dispute resolution, compliance reviews, technical assistance, and policy development to ensure understanding of and compliance with federal non-discrimination laws and regulations, including the following:

1. Ensuring that approximately 7,700 recipients of federal financial assistance are informed of and comply with the nation's civil rights laws,
2. Resolving beneficiary complaints alleging discrimination or violation of human rights, and
3. Conducting annual reviews of approximately 368 service providers to determine their compliance with the nation's civil rights laws.

DIDD Office of Civil Rights (OCR) monitors compliance with five federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability and age in programs or activities that receive federal financial assistance from the U.S. Department of Health and Human Services (HHS). The following federal regulations are monitored by DIDD Office of Civil Rights:

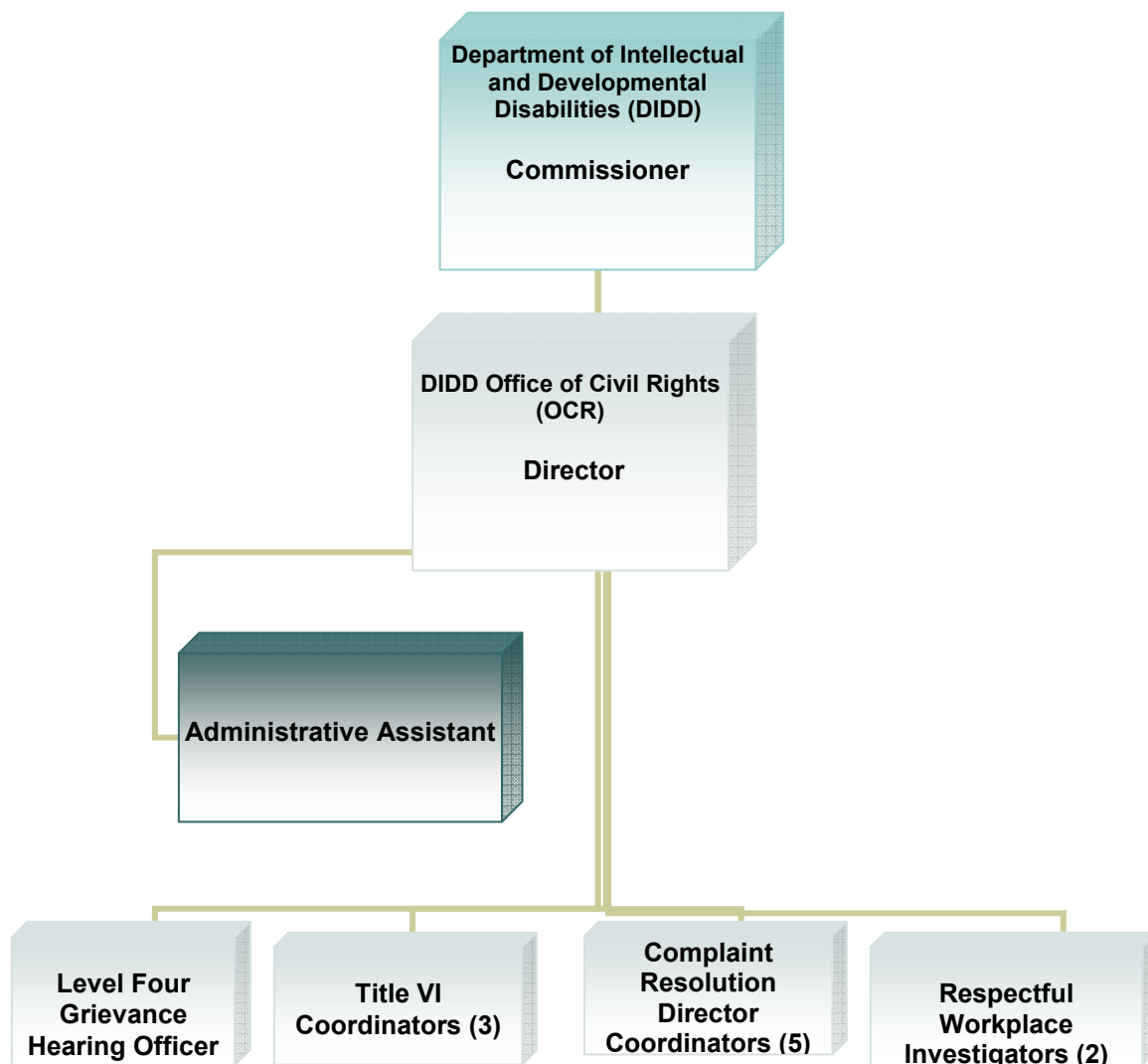
- **Title VI of the Civil Rights Act of 1964**, as amended (42 USC §2000d), prohibits discrimination on the basis of race, color, or national origin 45 CFR 80.
- **Section 504 of the Rehabilitation Act of 1973**, as amended (29 USC §794), prohibits discrimination against otherwise qualified individuals on the basis of disability in:

- Programs and activities receiving financial assistance from HHS 45 CFR 84;
- Programs or activities conducted by HHS 45 CFR 85.
- **Title IX of the Education Amendments of 1972**, as amended, (20 USC §1681) prohibits discrimination on the basis of sex (gender) in Federally-Assisted Education Programs 45 CFR 86.
- **Title II of the Americans with Disabilities Act**
 - Final Rule amending 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State and Local Government Services HTMLPDF -as published in the Federal Register September 15, 2010; and
- **Section 508 of the Rehabilitation Act of 1973**, as amended, (29 USC §794) prohibits discrimination on the basis of disability in electronic information and technology as they relate to programs and activities conducted by HHS.

During FY 2011, DIDD's Complaint Resolution System (CRS) was placed under the Office of Civil Rights. CRS staff has been cross-trained. All CRS staff have been trained to perform the following tasks: Ombudsman, mediation, conflict resolution, investigations, respectful workplace investigations (Title VII) and complaint resolution. In addition, CRS has ensured that all DIDD service providers have an active in-house Complaint Resolution Systems. This system meets the ongoing complaint needs of the persons they support and their families.

3.1. DIDD Office of Civil Rights Organizational Chart

Describe the organization and staffing of the department's Civil Rights/Title VI Unit. Organizational charts may be utilized



APPENDIX B - DIDD TITLE VI COORDINATORS/ COMPLAINT RESOLUTION STAFF

3.2. Title VI Director Responsibilities

Outline the duties and responsibilities of the Title VI Director/Coordinator.

The Commissioner of the Department of Intellectual and Developmental Disabilities has overall responsibility for the department's compliance with the provisions of Title VI of the Civil Rights Act of 1964. The Commissioner of the Department of Intellectual and Developmental Disabilities has designated the following individual as director of DIDD Office of Civil Rights (OCR):

OCR Director:	Brenda Clark
Phone Number:	(615) 231-5516
Facsimile:	(615) 231-5526
Email:	Brenda.Clark@tn.gov

OCR Director's Title VI related duties and responsibilities shall include, but are not limited to, the following:

1. Developing and monitoring implementation of DIDD Title VI nondiscrimination implementation plan.
2. Coordinating periodic evaluations of all aspects of DIDD activities to ensure programs and services are being conducted without discrimination on the basis of race, color, or national origin.
3. Developing departmental policy relating to nondiscrimination.
4. Conducting and coordinating Title VI training for DIDD staff and service providers.
5. Disseminating to all DIDD staff, applicants for services, and beneficiaries of services Title VI related information.
6. Conducting pre- and post-award compliance reviews to ensure that all funds are disbursed and services are provided on an equal opportunity basis.
7. Investigating Title VI complaints.
8. Submitting data and reports that the responsible state or federal agency determines necessary to ascertain whether DIDD has complied, or is complying, with Title VI requirements.
9. Monitoring service provider records and reviewing reports necessary to ascertain whether service providers' records have complied, or are complying, with Title VI.
10. Tracking and reviewing racial and ethnic makeup of staff administering federal assisted services and activities – including management, board of directors or other administrative staff.
11. Providing technical assistance.

4. DATA COLLECTION AND ANALYSIS

Purpose: *State departments and agencies must establish a system for collecting and reporting data which shows the extent to which members of protected groups are participating in federally assisted programs and activities.*

4.1. Program Beneficiary Demographics

Include racial and ethnic data demonstrating the extent to which members of minority groups are beneficiaries of the department's federally assisted programs and/or services. Include U.S. Census information in Tennessee and compare with the eligible population and the population actually served by the department's programs and activities. If the department does not collect racial and ethnic data, provide written correspondence from the federal funding source excusing this obligation.

According to the U.S. Census, there were approximately 49.7 million people with some type of long-lasting condition or disability living in the United States in 2000. This data represented 19.3 percent of the 257.2 million civilians aged five (5) and over who were not living in prisons, nursing homes, and other institutions, - or nearly one person in five.

People who indicated that they were White (single-race) and were not of Hispanic or Latino origin had a lower overall disability rate (18.3 percent vs. 19.3 percent overall). Among the racial and ethnic groups examined, people who reported Black and people who reported American Indian and Alaska Native shared the highest overall estimated disability rate of 24.3 percent. Asians who reported only one race had the lowest overall disability rate: 16.6 percent. The overall disability rate for single-race Pacific Islanders (19.0 percent) was slightly higher than the rate for Asians, but not statistically different from the rates for non-Hispanic Whites. Even though people reporting two or more races had the lowest median age, their disability rates were among the highest in 2000 - 21.7 percent overall. The overall disability rate for Hispanics (20.9 percent) was also higher than the overall rate of those surveyed.

In 2000, 8.7 million people with disabilities were poor - a substantially higher proportion (17.6 percent) than was found among people without disabilities (10.6 percent). The highest poverty rates in both cases were found among children aged 5 to 15: young people with disabilities had a poverty rate of 25.0 percent, compared with 15.7 percent for those without disabilities. Almost two out of every five people with a disability lived in the South, while about one in five lived in each of the other three regions of the U.S. West Virginia, the state with the highest median age in the United States, also recorded the highest disability rate for 2000 - 24.4 percent. Alaska and Utah had the lowest rates, each at 14.9 percent. Counties with very high disability rates were clustered in the coal mining areas of Kentucky, West Virginia, and Virginia.

4.1.1. 2010 Census of Population

2010 Census of Population

	TN	USA
Population 2010	6,346,105	308,745,538
Population, percent change, 2000 to 2010	11.5%	9.7%
Population, 2000	5,689,276	281,424,602
Persons under 5 years old, percent, 2009	6.8%	6.9%
Persons under 18 years old, percent, 2009	23.7%	24.3%
Persons 65 years old and over, percent, 2009	13.4%	12.9%
Female persons, percent, 2009	51.3%	50.7%
White persons, percent, 2010	77.6%	72.4%
Black persons, percent, 2010	16.7%	12.6%
American Indian and Alaska Native persons, percent, 2010	0.3%	0.9%
Asian persons, percent, 2010	1.4%	4.8%
Native Hawaiian and Other Pacific Islander, percent, 2010	0.1%	0.2%
Persons reporting two or more races, percent, 2010	1.7%	2.9%
Persons of Hispanic or Latino origin, percent, 2010	4.6%	16.3%
White persons not Hispanic, persons, 2010	75.6%	63.7%

Source U.S. Census Bureau: State and County Quick Facts.

National figures suggest that one percent of a state's population has an intellectual disability. The exact number of Tennesseans with an intellectual or developmental disability is unknown. On June 30, 2010, there were approximately 6,896 individuals statewide with an intellectual disability waiting to receive DIDD waiver services. There were approximately 3,455 on the waiting list for family support services. Individuals receiving DIDD home and community-based waiver services must be Medicaid eligible and meet the same level of care as required of individuals served by a developmental center.

On July 1, 2011, there were approximately 12,587 individuals receiving either family support, home and community-based services, or developmental center services. The following is a summation of DIDD beneficiaries (unduplicated count):

4.1.2. FY 2011 Family Support Program

Total Number of Service Recipients receiving funding during the reporting period:	4,514
Total Number of Service Recipients receiving waiver services:	31
Total Number of Service Recipients not receiving waiver services:	4,483

Total Number of non-waiver Service Recipients by Ethnicity:

Caucasian	African-American	Hispanic	Other	Total
3,404	916	46	117	4,483
75.93%	20.43%	1.03%	2.61%	100.00%

4.1.3. FY 2011 HCBS Waivers and Developmental Centers

East Region Race and Ethnicity Breakdown

	Developmental Centers			Community	
	#	% of Total		#	% of Total
White	177	92.19%		2515	88.12%
Black	14	7.29%		275	9.64%
Other	1	0.52%		57	2.00%
Not Known	0	0.00%		7	0.25%
TOTAL	192	100.00%		2854	100.00%
Hispanic	0	0.00%		8	0.28%
Non Hispanic	192	100.00%		2839	99.47%
Not Known	0	0.00%		7	0.25%
TOTAL	192	100.00%		2854	100.00%

	East TN Homes	
	#	% of Total
White	19	100.00%
Black	0	0.00%
Other	0	0.00%
Not Known	0	0.00%
TOTAL	19	100.00%
Hispanic	0	0.00%
Non Hispanic	19	100.00%
Not Known	0	0.00%
TOTAL	19	100.00%

Middle Region Race and Ethnicity Breakdown

	Developmental Centers			Community	
	#	% of Total		#	% of Total
White	39	76.47%		2247	78.93%
Black	11	21.57%		543	19.07%
Other		0.00%		40	1.40%
Not Known	1	1.96%		17	0.60%
TOTAL	51	100.00%		2847	100.00%

Hispanic	0	0.00%	10	0.35%
Non Hispanic	50	98.04%	2820	99.05%
Not Known	1	1.96%	17	0.60%
TOTAL	51	100.00%	2847	100.00%

West Region Race and Ethnicity Breakdown				
	West TN Homes		Community	
	#	% of Total	#	% of Total
White	29	63.04%	1142	54.51%
Black	17	36.96%	921	43.96%
Other	0	0.00%	21	1.00%
Not Known	0	0.00%	11	0.53%
TOTAL	46	100.00%	2095	100.00%
Hispanic	0	0.00%	5	0.24%
Non Hispanic	46	100.00%	2079	99.24%
Not Known	0	0.00%	11	0.53%
TOTAL	46	100.00%	2095	100.00%

Statewide Race and Ethnicity Breakdown				
	DCs and Group Homes		Community	
	#	% of Total	#	% of Total
White	264	85.71%	5904	75.73%
Black	42	13.64%	1739	22.31%
Other	1	0.32%	118	1.51%
Not Known	1	0.32%	35	0.45%
TOTAL	308	100.00%	7796	100.00%
Hispanic	0	0.00%	23	0.30%
Non Hispanic	307	99.68%	7738	99.26%
Not Known	1	0.32%	35	0.45%
TOTAL	308	100.00%	7796	100.00%

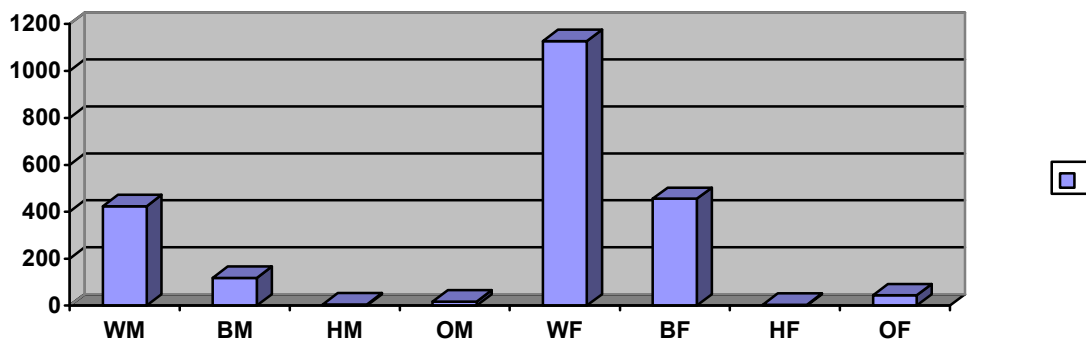
4.2. DIDD Workforce Diversity

Minority representation of agency staff - Identify the racial/national origin composition of the department staff. Provide total number of employees for the entire department AND provide a breakdown of each racial category by race and/or national origin with total number of each racial category and the percentage.

A diverse workforce is one that reflects the makeup of the civilian labor force and values differences. These differences include, but are not limited to, the following: cultural background, race, color, skill level, age, sex, national origin, or disability at all levels of the organization. Valuing diversity further promotes the recognition that individuals are different and a variation of skill sets; and, that diversity is an advantage, if appreciated, nurtured, and well managed. DIDD further recognizes that diversity should be an integral part of the organization. To this end, DIDD has developed a strategy to achieve the desired goal of workforce diversity. Department of Intellectual and Developmental Disabilities' diversity strategies will focus on three areas: data collection, recruitment and retention.

4.2.1. Data Collection

Job Category	White Male	Black Male	Hispanic Male	Other Male	White Female	Black Female	Hispanic Female	Other Female	Total
Officials/ Administrators	38	4	0	0	60	14	0	1	117
Professionals	147	31	2	11	361	152	3	34	741
Technicians	13	21	1	0	129	142	0	4	310
Protective Services	4	1	1	1	1	0	0	0	8
Administrative Support	12	2	0	1	106	22	0	0	143
Skilled Craft	34	2	1	0	1	0	0	0	38
Service Maintenance	175	57	0	4	469	125	1	5	836
Total	423	118	5	17	1127	455	4	44	2193



Total DIDD Workforce Racial Category and Percentage – August 23, 2011

White Male	Black Male	Hispanic Male	Other Male	White Female	Black Female	Hispanic Female	Other Female	Total
423	118	5	17	1127	455	4	44	2193
19.29%	5.38%	0.23%	0.78%	51.39%	20.75%	0.18%	2.01%	100.00%

4.2.2 Recruitment

DIDD will enhance its recruitment efforts to achieve broad and representative diversity in its workforce. Strategies that may be employed to ensure diversity shall include, but are not limited to, the following:

- Recognize and articulate diversity as an important business need of the agency.
- Concentrate and direct recruitment communications to organizations and institutions having either historical or mission-driven associations with protected beneficiary groups.
- Practice a commitment to interview a significant proportion of qualified people representing protected beneficiary groups.

4.2.3. Retention

Evidence suggests to support managing a diverse work force can definitely contribute to increased staff retention and productivity. Diversity can enhance the organization's responsiveness to an increasingly diverse world of customers, improve relations with the surrounding community, increase the organization's ability to cope with change, and expand the creativity of the organization. DIDD's long-term retention strategies may include, but are not limited to, the following:

- Establish and communicate work force diversity policy and program delivery expectations throughout the organization, recognizing that our strength is in our differences.
- Establish an environment in which a culturally diverse work force is valued and appreciated.
- Require annual diversity training and awareness for management staff.
- Improve new employee orientation and assimilation.
- Hold managers accountable for achieving work-force diversity objectives by reviewing and assessing key processes and practices to achieve work-force diversity.

4.3. Title VI Complaints FY 2011

List the total number of complaints received AND the total number of complaints that were determined to be valid Title VI complaints for the most recent FY.

4.3.1. Number of complaints received during FY 2011: 3

4.3.2. Number of complaints closed: 0

Reason

Administrative: 0

Failure to meet a prima facie case: 3

Settlement and/or resolution: 0

4.3.3. Number of complaints referred to another state or federal agency: 1

4.4. Lawsuits Filed

List any lawsuits during the most recent FY filed against the department or agency alleging discrimination on the basis of race, color or national origin under any federally funded program or activity. If none, then state that "there were no lawsuits filed alleging discrimination on the basis of race, color or national origin under any federally funded program or activity."

There were no lawsuits filed against Department of Intellectual and Developmental Disabilities alleging discrimination on the basis of race, color or national origin under any federally funded program or activity during the reporting period July 1, 2010 – June 30, 2011. However, the department has two Olmstead related lawsuits:

- ***The United States vs. State of Tennessee, et al. (Involves Arlington Developmental Center) is also known as the Remedial Order***

In January 1992, the U.S. Department of Justice sued the State of Tennessee for violations of the Civil Rights of Institutionalized Persons Act (CRIPA) at the Arlington Developmental Center. A court-appointed monitor ensured that DIDD complied with the terms of the remedial order. Arlington Developmental Center was officially closed in October 2010.

The State has filed a *Motion to Vacate All Outstanding Orders and to Dismiss the Case* with the federal court. A hearing is set for October 7, 2011 to hear the State's motion and the Parties' opposition to the dismissal.

- ***People First of Tennessee, et al. vs. The Clover Bottom Developmental Center, is also known as the Settlement Agreement***

In April 1996, DIDD entered into a settlement agreement with the advocacy group People First, which had sued the state, charging violations of CRIPA at Clover Bottom and Greene Valley Developmental Centers. The U.S. Department of Justice strongly suggested that the State settle, and, in December 1996, sued the State to become a party in the settlement negotiations. A four-member Quality Review Panel (QRP) monitors the developmental centers and community providers on an annual basis. In March, 2006 a Federal Court in Nashville dismissed Greene Valley from the part of the lawsuit involving institutional conditions at the center. Work continues, and progress is being made on bringing Clover Bottom Developmental Center (CBDC) into compliance with the settlement agreement.

In December 2009, the State announced its intent to close CBDC. Residents will be provided appropriate services and supports in alternative settings like small privately-operated Intermediate Care Facilities for the Intellectually Disabled (ICFs/ID), community-based waiver services, state-operated ICFs/ID, or other appropriate placements. DIDD will build nine, four-person ICF/ID licensed homes in and around Davidson County for medically fragile residents and two homes to serve behaviorally challenged residents. The census at CBDC has declined over the past year from 101 residents to forty-eight (480 residents).

The Quality Review Panel (QRP), established by this lawsuit, completed a review of CBDC in November 2010, and rated the facility to be in compliance or partial compliance with 90 percent of the requirements set out in the Settlement Agreement. The QRP is expected to conduct its next, and likely its last, review of CBDC at the end of 2011. Clover Bottom Developmental Center is scheduled to close in 2012.

Agreement was made with the QRP and the parties to this lawsuit on the methodology for the QRP's use in its annual review of community residential and day service providers in November 2010. The QRP has begun its 2011 review of services provided to class members in the community and should provide a report of its findings around the first of December 2011 in regards to the State's compliance with the community system requirements outlined in the 1999 court-ordered Settlement Agreement.

Olmstead refers to the 1999 U.S. Supreme Court judgment in the case *Olmstead vs. L.C.* The case was brought against the Georgia State Commissioner of Human Services (Tommy Olmstead) on behalf of two women with developmental disabilities (known as L.C. and E.W.) who were diagnosed with mental illness (schizophrenia and personality disorder, respectively). The women were voluntarily admitted to Georgia Regional Hospital for treatment in a psychiatric unit (Atlanta Legal Aid Society 2004). After some time, the women indicated their preference for discharge and the professionals working with them assessed that they were ready to move into a community setting with appropriate support.

The women were not successfully discharged from the hospital, and in 1995 the Atlanta Legal Aid Society filed a lawsuit, which was eventually heard by the U.S. Supreme Court. The Supreme Court ruled that under Title II of the Americans with Disabilities Act (ADA, 1990) the women had the right to receive care in the most integrated setting appropriate, and, that their unnecessary institutionalization was discriminatory and violated the ADA.

According to the Center for Personal Assistance, the Olmstead ruling provided an important clarification about how states should comply with Title II of the ADA. The ADA applies to all public bodies and to the use of public funds and, therefore, has implications for publicly-funded Medicaid services to people with disabilities (Rosenbaum and Teitelbaum 2004). The Olmstead decision confirmed that states must ensure that Medicaid-eligible persons do not experience discrimination by being institutionalized when they have an opportunity to be served in a more integrated (community) setting (Rosenbaum and Teitelbaum 2004). This obligation is sometimes known as the ADA "integration mandate."

The Supreme Court made limited recommendations for the manner in which states might ensure compliance with the ADA in light of Olmstead. The Supreme Court indicated that states should make reasonable accommodations to their long-term care systems, but should not be required to make fundamental alterations. It suggested that compliance might be demonstrated by comprehensive, effectively working plans (Olmstead Plans) to increase community-based services and reduce institutionalization. This process may be accomplished by ensuring that

waiting lists for services move at a reasonable pace (Smith and Calandrillo 2001). An analysis of rulings in community integration lawsuits after Olmstead has shown that lower courts have generally decided that evidence of active engagement and slow progress towards more community-integrated long-term care satisfies the ADA (Rosenbaum and Teitelbaum 2004).

To aid states in the compliance with Olmstead, the federal government issued guidance based on the opinions given by the judges. The federal government has also provided ongoing policy guidance encouraging review and development of state LTC policy (e.g., Olmstead plans), promoted the increased use of existing policy options for HCBS (e.g., encouraged states to apply for HCBS waivers), and announced rule amendments to enable more flexibility in Medicaid HCBS (e.g., ability to provide retainers to personal assistants) (Rosenbaum 2001). While the Federal government's commitment to new initiatives (e.g., the New Freedom Initiative) has been welcomed, it has also been criticized on two counts: (1) a lack of an overall national policy framework for community integration of people with disabilities, and (2) inadequate stimulation of change in the long-term care system to eliminate unnecessary institutionalization of disabled people (Gran et al 2003).

The Olmstead ruling stimulated lawsuits raising similar issues in other states on behalf of people who are now institutionalized or at risk of institutionalization because of a lack of community-based services. These lawsuits often invoke two different sets of federal laws: (1) civil rights laws (including the ADA, Olmstead ruling and the Rehabilitation Services Act 1973) and (2) Medicaid law {U.S. Department of Justice (DOJ) 2002}.

The Olmstead ruling also led to complaints being filed with the Department of Justice (DOJ) regarding community integration (Rosenbaum et al 2001, U.S. DOJ 2005). One study found that by May 2004, 627 complaints had been filed against state agencies claiming that people had not received services in the most integrated setting (Rosenbaum and Teitelbaum 2001). In addition, a recent report from the Office of Civil Rights describes community integration complaints from approximately 250 individuals across the nation, which have been resolved by the Office of Civil Rights (OCR 2005).

In August 2011, the Legal Aid Society of Tennessee filed a lawsuit (Olmstead related) against DIDD on behalf of People First, a nonprofit group that advocates for people with disabilities. The suite was filed on behalf of thirty-nine (39) Tennesseans ranging from ages seven (7) to fifty-two (52) over the cuts to in-home care services, claiming the move violated the Americans with Disabilities Act. The lawsuit, filed by plaintiffs from Nashville, Madison, Brentwood, Franklin, Murfreesboro, Mt. Juliet, Goodlettsville and other cities across the state, seeks to block cuts to the state's in-home nursing and personal assistance services.

5. DEFINITIONS

Purpose: To have a clear understanding of any defined terms and programs that may be unfamiliar to the reader of the implementation plan.

Definitions of all common terms stated in the plan shall be included in this section to ensure that agency staff, recipients and beneficiaries have consistent applicable definitions.

Assurances - a written statement of agreement signed by one legally authorized to contractually bind an entity in which the signatory agrees on behalf of the organization to administer federally assisted programs in accordance with all applicable laws and regulations including those applicable to nondiscrimination.

Beneficiaries - those persons to whom assistance, services, or benefits are ultimately provided pursuant to a state administered or contracted program. Potential beneficiaries are those persons who are eligible to receive program benefits and services.

Bureau of TennCare - the department within the Tennessee Department of Finance and Administration designated to serve as the Single State Medicaid Agency.

Centers for Medicare and Medicaid Services (CMS) - a federal agency, formerly known as the Health Care Financing Administration (HCFA), within the U.S. Department of Health and Human Services. Programs for which CMS is responsible include Medicare, Medicaid, State Children's Health Insurance Program (SCHIP), HIPAA, and CLIA.

Class Member(s) - an individual who is entitled to certain protections and rights under the decision or settlement of a class action lawsuit. In Tennessee, class members consist of all persons who presently reside, will reside, or have resided since December 22, 1992, at one of the three developmental centers named in the 1995 and 1996 lawsuit between plaintiffs, - People First of Tennessee and the U.S. Department of Justice, and the defendant, the State of Tennessee.

Complaint - a written allegation of discrimination which indicates that a program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color, or national origin.

Compliance - fulfillment of the requirements of *Title VI*, other applicable laws, implementing regulations, and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color or national origin.

Compliance Reviews - regular, systematic inspections of agency programs conducted to determine compliance with *Title VI* requirements as well as the intents of this implementation plan. Compliance reviews are intended to help measure the effectiveness of agency efforts to foster the intents of *Title VI*. Compliance reviews may be conducted by means of either on-site or desk reviews of programs and associated documentation. These reviews may identify problems such as denial of full benefits, barriers to participation, different treatment, lack of selection to advisory boards and planning committees, lack of information, or denial of the right to file a complaint.

Contractor - a person or entity that agrees to perform services at a specified price either pursuant to a contract or grant. The state must determine for each contract whether it establishes a vendor or a Service Provider relationship with the state.

Desk Review - a desk review is a structured paper review of statistical and narrative information submitted by recipients or agency program offices of compliance information obtained before or without going on-site and may include routine reviews of assurance forms or other documents to ensure that these documents have been properly completed.

Developmental Disability - a severe, chronic disability of an individual five (5) years of age or older that has the following characteristics:

- (A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (B) Is manifested before age twenty-two (22);
- (C) Is likely to continue indefinitely;
- (D) Results in substantial functional limitations in three or more of the following major life activities;
 - (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency; and
- (E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is likely to continue indefinitely and the need for these services and/or supports to be individually planned and coordinated.

Discrimination - involves making an illegal distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, national origin, gender, visual impairment, or other characteristic deemed to be "protected" from discrimination under federal or state law.

Federal Assistance - any funding, property, or aid provided by the federal government.

Intellectual disabilities - substantial limitations in functioning:

- (A) As shown by significantly sub-average intellectual functioning that exists concurrently with related limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work, and
- (B) That is manifested before age eighteen.

Interpreter - shall mean an individual who orally conveys information from one language to another.

Limited English Proficiency - (shall mean) the inability to speak, read, write or understand the English language at a level that permits an individual to effectively interact with health and social services agencies and providers.

Medicaid - medical assistance provided under a state plan approved under Title XIX of the Social Security Act.

Medicare - the health insurance program for the aged, blind, and disabled under Title XVIII of the Social Security Act.

Minority - (for the purposes of this document) a minority is a person or groups of persons differing from others in some characteristics and who have been historically protected by anti-discrimination laws based on race, color, or national origin.

Monitoring - a review process used to determine a service provider's compliance with the requirements of a state and/or federal program, applicable laws and regulations, and stated results and outcomes.

Non-compliance - failure to comply with Title VI of the Civil Rights Act of 1964, other applicable civil rights laws, and implementing departmental regulations.

Post-Award Review - a routine inspection of agency programs during and after federal assistance has been provided to the beneficiary or recipient. These reviews may be cyclical or based on a priority system contingent upon the potential for noncompliance in individual programs. Reviews are normally conducted through on-site visits; however, desk reviews and other mechanisms may also be used to assess the operation of programs. A post-award review may result in a written report that shows compliance status. When necessary, the report will contain recommendations for corrective action. If non-compliance is identified, technical assistance and guidance will be provided to result in voluntary compliance. If voluntary compliance cannot be secured, formal enforcement action is then initiated.

Pre-Award Review - a review of the proposed operations of a program applicant prior to the approval of a contract and the establishment of a service provider relationship. DIDD must determine that the program or facility will be operated so that program benefits will be equally available to all eligible persons without regard to race, color, national origin, gender, or visual impairment. The applicant may provide methods of administering the program designed to ensure that the program would comply with all applicable regulations, and to correct any existing or developing instances of non-compliance.

Provider Agreement - an agreement between a provider and DIDD that describes the conditions under which the provider agrees to furnish covered services to beneficiaries.

Public Notification - (shall mean) communicating and publicizing information by means of newspapers, newsletters, periodicals, radio and television, community organizations, grassroots and special needs directories, brochures, or pamphlets. Information may include, but is in no way limited to, DIDD's processes related thereto, statements of nondiscrimination, as well as the availability of programs, services and benefits.

Service Provider - an institution, nonprofit organization, facility, agency, individual, corporation, partnership, or association approved by DIDD that provides services to beneficiaries pursuant to a provider agreement with DIDD.

Services - (shall mean) the benefits described in the Provider Agreement or contract.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d - Federal law prohibiting discrimination based on race, color, or national origin. It covers all forms of federal aid except contracts of insurance and guaranty. This law does not cover employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the federal assistance is to provide employment.

Translator - (shall mean) an individual who conveys in writing from one language to another the context of a document.

Waiver - authority given to the state to waive one or more general Medicaid requirements. There are several types of waivers, i.e., Demonstration Waivers –1115, Freedom of Choice-1915 (b), Home and Community Based – 1915 (c). Waiver services may not duplicate state plan services.

6. DISCRIMINATORY PRACTICES

Purpose: To provide examples of prohibited discriminatory practices which the department has jurisdiction to investigate.

6.1. Prohibited Discriminatory Practices

Specify prohibited discriminatory practices under Title VI, where applicable.

In order to identify the specific practice or service involved in an alleged discrimination, the Title VI Director will assess the following practices with regards to race, color, national origin, etc:

- Any difference in the quality, quantity, or manner in which a service or benefit is provided,
- Segregation in any part of a program or separate treatment in any manner,
- Restriction in the enjoyment of any advantages, privileges, or other benefits that are provided by the program,
- Different standards or requirements for participation or entry,
- Separate treatment in any manner related to receipt of services or benefits,
- Restriction of the membership of advisory or planning councils that are an integral part of federally-funded programs,
- Failure to provide information or services in languages other than English where a significant number or proportion of potential beneficiaries are of limited English-speaking ability,
- Failure to adequately advise person(s) in the eligible population of the existence of services or benefits, or
- Use of criteria or methods of administration that would defeat or substantially impair the accomplishment of program objectives or would impact more heavily on members of a protected group.

6.2. Examples of Potential Discriminatory Practices within DIDD

Provide examples of prohibited discriminatory practices of which the department has jurisdiction to investigate.

- *Any difference in the quality, quantity, or manner in which a service or benefit is provided*

Example: When a DIDD service provider offers transportation services, the hours of operation must be the same for all program participants. The service provider cannot limit the hours of operation based on the individual's geographic location (inner city vs. suburbs).

- *Different standards or requirements for participation or entry*

Example: Residential service providers are prohibited from using race or ethnicity as a basis for assigning housing or making roommate selections upon entry into the program or during program participation.

7. LIMITED ENGLISH PROFICIENCY (LEP)

Purpose: *Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.*

7.1. DIDD Limited English Proficiency Policy

Include the department's LEP policy and procedure.

I. REFERENCE: 45 C.F.R. Part 80

II. APPLICATION: All DIDD employees

III. DEFINITIONS:

- A. Interpretation:** (shall mean) the process of understanding and analyzing a spoken message and re-expressing that message faithfully, accurately, and objectively into another language, taking the cultural and social context into account.
- B. Interpreter:** (shall mean) a person whose task is to facilitate the understanding of communication between people who do not speak the same language.
- C. Limited English Proficiency (LEP):** (shall mean) individuals who do not speak English as their primary language and who have a limited ability to speak, read, write or understand English.

IV. POLICY: DIDD regional offices and facilities will ensure that all applicants for services and individuals receiving services with limited English proficiency (LEP) are provided access to services.

V. PROCEDURES:

- 1) How to Target a Foreign Language.
 - a) In some instances, DIDD employees may be familiar with the targeted language. For instance, Spanish is widely spoken and may be identified.
 - b) If the person with LEP is physically present, utilize the International Language ID Chart (Attachment A) to assist in targeting a language. The Language ID Chart translates "Do you speak English?" and "Point here and an interpreter will be assigned to you." into twenty-

two (22) commonly spoken foreign languages with the English translation of the language in the last column.

- c) Some individuals with LEP can speak “broken” English well enough to state what language they speak or the country from which they come.

2) Working with Interpreters.

- a) Direct the conversation to the individual with limited English proficiency.
- b) Be aware that the interpreter will use the “first-person” narrative when addressing or referring to the person with LEP. (i.e. “What type of services do you need?” “I need ...”
- c) Speak slowly and clearly.
- d) Look at the interpreter as a tool or conduit of information, not as a source of information.
- e) Be aware that the interpreter may take longer interpreting than it takes for one to speak in English.
- f) Allow sufficient time for the person with LEP to respond.
- g) Explain medical or legal terminology in simple terms.
- h) Remember to break down terminology that cannot be interpreted, or that has no cultural equivalent, into basic phrases (i.e. range-of-motion, behavioral medicine, etc.) and ask the person if he or she understands the interpreted terminology.
- i) Remember that the interpreter interprets everything which is said.

3) Accessing Over-the-Phone Interpreter Services

- a) Interpreter services may be accessed for DIDD use only.
- b) Regional Office employees who have identified a need for interpreter services should contact their Area Language Interpreter Contact to access interpreter services.
- c) Each Area Language Interpreter Contact will be responsible for arranging coordinated back- up when they are unavailable.

- 4) Family members, especially children, or friends are not allowed to interpret for the person with Limited English Proficiency unless specially requested by the person.

7.2. DIDD Service Provider LEP Requirements

DIDD Provider Manual, Chapter 2 Consumer Rights and Responsibilities, Section 2.7.b. outlines service provider requirements as they relate to Title VI of the Civil Rights Act of 1964 and LEP. Chapter 2 Section 2.7.b., states in pertinent part the following:

“All providers must ensure that applicants and individuals receiving services receive equal treatment, equal access, equal rights and equal opportunities without regard to race, color, national origin or Limited English Proficiency (LEP).”

Additionally, DIDD service providers must meet the following requirements:

- 1) Support coordinators/case managers must document that people on the waiting list for services or waiver service recipients are informed of Title VI protections and remedies for Title VI violations on an annual basis.
- 2) All providers must designate a Title VI Local Coordinator.
- 3) All providers must ensure that service recipients know who the local coordinator is and how to contact him/her.
- 4) All providers must develop and implement written policies and procedures addressing the following:
 - Employee training to ensure Title VI compliance during service provision;
 - Employee training to ensure recognition of and appropriate response to Title VI violations;
 - Complaint procedures and appeal rights pertaining to alleged Title VI violations for service recipients; and
 - Personnel practices governing response to employees who do not maintain Title VI compliance in interacting with service recipients;
- 5) All providers must provide or arrange language assistance (i.e. interpreters and/or language appropriate written materials) to persons of limited English proficiency (LEP).
- 6) All providers must provide meaningful access to services to LEP service recipients.
- 7) All providers must have a mechanism for advising service recipients regarding the options for filing a Title VI complaint.
- 8) All providers must display Title VI materials in conspicuous places accessible to service recipients. Materials are available from local coordinators, DIDD Regional Office Title VI Coordinators or the DIDD Office of Civil Rights.
- 9) Residential providers must ensure that room assignments and transfers are made without regard to race, color, or national origin;
- 10) All providers must complete and submit an annual Title VI self-survey in the format designated by DIDD as a part of their overall quality assurance efforts;
- 11) All providers must orient employees to their Title VI responsibilities and the penalties for noncompliance within the first sixty (60) days of employment and must document such in the personnel files of the employees.
- 12) All providers must conduct an annual Title VI employee in-service training and must document such in the personnel files of the employees; and

- 13) All providers must ensure vendors, subcontractors and other contracted entities are clearly informed of Title VI responsibilities and compliance.

7.3 Translation and Interpreter Services

List contact information of translator and interpreter services (on-site staff and/or contractors) utilized by the department.

DIDD will use the statewide language interpreter contract to reduce language barriers that can preclude meaningful access by limited English proficient (LEP) persons with intellectual and developmental disabilities. During FY 2011, DIDD utilized the following to provide interpreter services:

World Wide Interpreters, Inc.

516 Missouri
South Houston, Texas 77587
Telephone: 713-941-1911
FAX: 713-941-1030

Type of Interpreter Service: Over-the-Phone

Cecilia Melo-Romie

Statewide LEP Outreach Coordinator
Tennessee Disability Pathfinder
Vanderbilt Kennedy Center
1211 21st Avenue South,
Suite # 539 Medical Arts Building
Nashville, Tennessee 37212

**Type of Interpreter Service: Over-the-Phone
On-Site**

DIDD will utilize the following contractor during FY 2012 to provide interpreter services.

Avaza Language

Ste 112
209 10th Ave South
Nashville, Tennessee 37203
(615) 534-3404
Vendor ID 135615
Contract # 26450

**Type of Interpreter Service: Over-the-Phone
On-Site**

7.4. FY 2011 Languages Confronted by DIDD

Provide a breakdown of the various languages confronted by the department or agency as a result of on-site and telephonic encounters from the public.

DIDD provided the following language assistance during the reporting period July 1, 2010 – June 30, 2011:

Spanish
Arabic

Kurdish
Somali

7.5 Strategies to Breakdown Barriers to LEP Challenges

Identify other steps and goals toward breaking down barriers to LEP challenges, if applicable.

Limited English Proficiency (LEP) refers to those persons who do not speak English as their primary language and who have limited ability to read, speak, write, or understand English. In order to insure access to services and to breakdown barriers to LEP challenges, DIDD will work with service providers to assess the following:

- **The number or proportion of LEP persons with intellectual disabilities eligible to be served or likely to be encountered by the service provider.**

During FY 2011, DIDD service providers reported less than 10 percent of the individuals receiving DIDD services had limited English proficiency.

- **The frequency with which LEP individuals with intellectual disabilities come in contact with the service provider.**

During FY 2011, 96 percent of DIDD service providers reported infrequent or no contact with LEP individuals.

- **The nature and importance of the service or activity provided by the service provider to people's lives.**

During FY 2011, 89 percent of DIDD service providers reported denial or delay of access to services or information would not have serious or even life-threatening implications for LEP individuals.

- **The resources available to the beneficiary or service provider and costs.**

During FY 2011, 78 percent of DIDD service providers reported agency resources are meeting the needs of LEP individuals.

A copy of DIDD's FY 2011 service provider Title VI Self-Survey is included in **APPENDIX C - DIDD Title VI Self Survey**

7.6 FY 2011 DIDD LEP Activities

DIDD has a contractual agreement with Vanderbilt Kennedy Center Disability Pathfinder to provide Hispanic outreach and interpreter services. Pathfinder is a disability information resource center with a statewide bilingual helpline and website that include local, state, and national resources. During FY 2011, the Hispanic Outreach Coordinator's title was changed to LEP Coordinator. In addition to providing interpretation and translation services, the LEP Coordinator is responsible for identifying community resources across the state and providing community and DIDD staff training on working with families who are culturally diverse. During FY 2011, the coordinator's duties were expanded to include working with families who are underserved, as well as, those who have limited English proficiency. The goal is to serve as a community liaison between DIDD staff and LEP families eligible for Medicaid Waiver or Family Support Services.

7.7. FY 2011 LEP Coordinator Activities

7.7.1 Access to Services

- ✓ LEP Coordinator assisted fifty-nine (59) families [51- Hispanic (Spanish)] who called Pathfinder seeking Medicaid Waiver or Family Support services;
- ✓ Fifteen (15) Hispanic (Spanish) individuals and one individual who spoke Arabic were placed on the Family Support waiting list; and
- ✓ Three (3) Hispanic (Spanish) families were assisted with Medicaid Waiver applications (self-determination).

Although DIDD non-waiver services are limited, the LEP Coordinator was able to secure the following needed services:

- ✓ One (1) family received emergency respite through Family Support for an adult (on the waiting list) whose mother had emergency surgery (Grainger County).
- ✓ One Hispanic (Spanish) family received \$4,000 from Family Support for a specialized stroller and respite care (Shelby County).
- ✓ One Hispanic (Spanish) family received conservatorship, a process started in last fiscal year (Williamson County).
- ✓ Two (2) Hispanic (Spanish) families on the Medicaid Waiver waiting list were assisted in obtaining Low Income Home Energy Assistance Program (LIHEAP) (Davidson and Rutherford Counties).
- ✓ One individual in residential placement through DIDD Medicaid Waiver needed behavioral intervention assistance and was referred to the department's behavioral team (Shelby County).
- ✓ With expansion to serve individuals of all languages, one Egyptian family with a teenage daughter with Autism and intellectual disabilities was referred to the DIDD Medicaid Waiver waiting list and Family Support program (Davidson County).

7.7.2. Training

Training and building relationships/networking with DIDD staff and community agencies across Tennessee is very important. LEP Coordinator conducted the following training sessions:

Dates	Topic	Location	Participants
11/22/10	Navigating Tennessee Disability Pathfinder & Working with Disability, Spanish-speaking and Other Multicultural Populations (Megan & Cecilia)	Division of Intellectual Disabilities Services State Office	26
3/29/11	Working with Disability, Spanish-speaking and Other Multicultural Populations (Cecilia)	Department of Intellectual & Developmental Disabilities, West TN Regional Office	6
3/29/11	Navigating Tennessee Disability Pathfinder website	Department of Intellectual & Developmental Disabilities, West TN Regional Office	6

7.7.3. Outreach Activities

LEP coordinator provided Autism information to Spanish media (newspapers, TV, and radio).

Provided public awareness activities with the collaboration of Spanish Media in Middle and East Tennessee Regions included the following:

- Scheduled twenty-nine (29) guests from Camino Seguro Middle agencies to appear on a community outreach talk show hosted by radio 2“La Sabrosita” WNGC 810 AM.
- Collaborated with Dr. Coral Getino, a Camino Seguro partner from HoLa Hora Latina in Knoxville, who organized twenty-four (24) interviews from agencies in Camino Seguro East Tennessee Region at radio station “La Lider” WKZX 93.5 FM in Lenoir City, Tennessee (Loudon County).

During FY 2011, the LEP Coordinator managed the Camino Seguro database of over 265 bilingual service providers across Tennessee with service provider information updated and maintained by seventeen (17) bilingual partners in East, West and Middle Tennessee. This year 160 new bilingual service providers were identified. LEP Coordinator created AIRS (Alliance for Information and Referral Systems) standards for service keyword categories in the Camino Seguro database.

Camino Seguro was included in FY 2011 Disability Services and Support Directory, a printable directory that can be downloaded from Pathfinder’s website. All 265 agencies were updated and verified.

Camino Seguro website has been re-designed on the Pathfinder website at www.familypathfinder.org or www.ca_minoseguro.org . The content of Camino Seguro homepage and each web-page for every link has been translated into English/Spanish. Google analytics of this webpage indicated that from July 2010- June 2011, there were 2,116 visits made to this site from fifty-three (53) towns in Tennessee, with a total of 16,939 pages viewed.

LEP Coordinator visited Family Support program at Emory Valley Center in Oak Ridge, Tennessee and Hamblen County Public Health Department.

The LEP Coordinator is an invited member of the Tennessee Autism (ACT Early) Summit Team at Vanderbilt Kennedy Center. This group met several times with representatives from Vanderbilt University, UT Boling Center and other agencies across the state concerning disseminating information pertaining to Autism (English and Spanish). The ACT meeting took place on January 7, 2011 and April 15, 2011, in the Vanderbilt Kennedy Center.

7.7.4. Translation Activities

- LEP Coordinator provided interpreter/translation service for nine (9) Hispanic families (Spanish) from Middle and West Tennessee Regions. DIDD case managers requested interpreter and translation services to complete Family Support applications or Medicaid Waiver information (Self-determination Waiver).
- LEP Coordinator updated the Department of Intellectual and Developmental Disabilities (DIDD) Title VI pamphlet, Title VI magnet, and Title VI poster.

8. COMPLAINT PROCEDURES

Purpose: *Any person who believes that a department or agency receiving Federal financial assistance has discriminated against someone on the basis of race, color or national origin may file a complaint.*

8.1. DIDD Complaint Procedures

Describe agency procedures related to the filing of complaints, investigations, report of findings, and hearings and appeals, if applicable.

While this procedure is directed at the processing of Title VI complaints, as a general proposition, all discrimination complaints will follow the same processing procedures.

Any family member, service recipient or legally authorized representative on behalf of such service recipient may file a complaint of discrimination on the basis of race, color, national origin, disability, or age. The individual or organization filing the complaint may not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

All complaints of alleged discrimination will be investigated. It is the policy of DIDD to encourage the informal resolution of all complaints with the participation of all affected parties. Attempts will be made to resolve the complaint at the lowest level possible.

A complaint alleging discrimination against a service provider or any entity of the Department of Intellectual and Developmental Disabilities may be filed with the Office of Civil Rights Complaint Resolution Unit, regional Title VI Coordinator, DIDD Director of Civil Rights, or the Commissioner of DIDD. A complaint may also be filed externally with the Tennessee Human Rights Commission or the Department of Health and Human Services Office for Civil Rights, Region IV, in Atlanta, Georgia.

Anyone wishing to file a formal complaint of alleged discrimination against DIDD or any DIDD service provider may submit in writing to the Office of Civil Rights the following information in a letter or using the Discrimination Complaint Form available from DIDD Office of Civil Rights:

- ✓ A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) {names of the injured person(s) are not required};
- ✓ The name and location of the service provider or developmental center that committed the alleged discriminatory act(s), and
- ✓ A description of the alleged discriminatory act(s) in sufficient detail to enable DIDD to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, disability, or age).

Upon receiving a Title VI complaint, the regional Title VI Coordinator will acknowledge receipt of the complaint within fifteen (15) days. The Title VI Coordinator will review the complaint to determine whether DIDD has jurisdiction to investigate the complaint. The complaint must meet the following basic criteria to be accepted for investigation:

- The complaint must allege discrimination on a basis prohibited by Title VI of the Civil Rights Act of 1964.
- The complaint must allege that discrimination is occurring in a program or activity that receives financial assistance from DIDD.
- The subject matter (i.e., issues) addressed by the complaint must be covered by Title VI of the Civil Rights Act of 1964.
- The complaint must be timely filed, within 180 days of the alleged violation, unless the requirement is waived.

If there is insufficient information to determine whether the complaint meets these four criteria, the complainant will be contacted to obtain this information. The following are examples of items that will not constitute a complaint, unless the item contains a signed cover letter specifically asking DIDD to take action concerning the allegations:

- an anonymous complaint,
- inquiries seeking advice or information,
- courtesy copies of court pleadings,
- courtesy copies of complaints addressed to other local, state, or federal agencies;
- newspaper articles,
- courtesy copies of internal grievances, or
- oral complaints.

All complaints will be reviewed. If the complaint does not meet the prima facie case, complainant will be notified in writing. The complaint may be forwarded to the Office of Civil

Rights Complaint Resolution section for review, a federal/state agency, or a local organization (e.g., National Association for the Advancement of Colored People, Mexican American Legal Defense and Education Fund, Urban League, National Organization for Women, etc.) to explore whether further action is warranted.

8.2. FY 2011 Title VI Complaint Form

Attach a copy of the complaint form utilized by the department or agency, if applicable.

EXHIBIT 4—DIDD DOCUMENTATION OF COMPLAINT FORM

DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES DOCUMENTATION OF COMPLAINT <i>pursuant to Title VI of the Civil Rights Act of 1964.</i>		
NAME (of person making the complaint)		
	ADDRESS	
	TELEPHONE (business)	
	TELEPHONE (home)	
<u>DESCRIPTION OF THE COMPLAINT:</u> (describe what happened and who you believe was responsible)		
<u>APPARENT BASIS OF THE DESCRIBED SITUATION:</u> (select all that apply and explain)		
<input type="checkbox"/> race <input type="checkbox"/> national origin <input type="checkbox"/> gender <input type="checkbox"/> visual impairment		
DATE DESCRIBED SITUATION OCCURRED:		
NAME OF ORGANIZATION INVOLVED IN THE COMPLAINT:		
	ADDRESS	
	TELEPHONE (business)	
PERSON INVOLVED (if other than complainant)		
	ADDRESS	
	TELEPHONE (business)	
	TELEPHONE (home)	
HAS THE COMPLAINT BEEN FILED THROUGH ANOTHER GRIEVANCE OR COMPLAINT PROCESS? IF SO, EXPLAIN AND PROVIDE CURRENT STATUS OF SUCH: <input type="checkbox"/> YES <input type="checkbox"/> NO		
Signature		Date
* attach any written materials or other information relevant to the complaint		

8.3 Title VI Complaints

Describe agency procedures related to report of findings. Provided is a brief summary of complaints received and disposition for FY.

Prior to filing a Title VI complaint against a regional office, developmental center, or service provider, a potential complainant will be encouraged to review the regional office, developmental center or service provider's complaint process and use that process to have the complaint resolved. A complainant is not required by law to use an internal grievance process before filing a complaint. If a complainant uses an internal grievance process and also chooses to file a complaint, the complaint must be filed within sixty (60) days after the last act of the internal grievance process.

DIDD received three (3) Title VI complaints during the reporting period. The following is a summary of each case:

Date Filed	Region Location	Allegation	Resolution
November 2010	Middle Tennessee	Abuse/Neglect of an individual receiving DIDD services.	Allegation was investigated by DIDD Protection From Harm Unit. Allegation failed to meet prima facie case for Title VI.
June 2011	East Tennessee	Inmate alleges discrimination within the Protective Custody Unit at Northeast Correctional Facility - Department of Correction	Correspondence forwarded to the Department of Correction for review and processing.
May 2011	Middle Tennessee	Mother filed a complaint in response to a reduction in nursing hours.	Allegation failed to meet prima facie case for Title VI. Reviewed by DIDD Complaint Resolution.

8.4. Investigation Procedure

Describe agency procedures related to investigations and appeals, if applicable.

Once a complaint (formal and informal) is accepted for processing, the Title VI Coordinator will immediately contact the Tennessee Human Rights Commission, assign a tracking number, and develop an Investigative Case File. A log will be maintained of all complaints and appeals. The complaint will be noted in the log by case number based on region, fiscal year, month, and sequence in which the complaint was received (e.g. A complaint received from East Tennessee Region in July, 2011, which is the second complaint received in 2011 will be case number E (region) 11 (year) 07 (month)-002 (sequence)).

The Investigative Case File is a structured compilation and repository of all documents and information pertaining to the case. An Investigative Case File will be established for each complaint that is accepted for investigation. A six-section folder will be used for this purpose. A case file will not be maintained on those complaints that are administratively closed for lack of jurisdiction, because they are untimely filed; for failure to exhaust local remedies, or for failure to state a claim over which DIDD has jurisdiction.

The purpose of the Investigative Case File is to establish a methodology for the systematic compilation and structured storage of all documents, records, and information associated with the case. This is done in such a manner that the Case File:

- (a) Provides the basis and supporting documentation for the coordinator's draft report, and
- (b) Allows a reader of that report to easily verify the facts upon which it is based.

8.4.1. Format for the Investigative Case File

Investigative Case File will include the following:

Section I - Contents/Log - This section has two types of entries and is attached to the inside left-hand of the file folder.

- *Table of Contents.* This entry describes each section in the case file and identifies each entry under that section. The Table of Contents is attached as the top page of Section I.
- *Case File Log.* The purpose of the case file log is to record all contacts and activities relevant to processing the complaint for which there is no paper trail. The log is to be used as a reference of the actions taken by the coordinator on the case, including the date, summary of actions, and the name of the individual annotating the actions. Under "Action," a brief description of the activity, including any outcome and future action required, will be recorded.

Section II - External Correspondence - All external correspondence will be included under this section, and will be attached immediately opposite Section I on the first page of the file folder. External correspondence will be filed chronologically (*i.e.*, most recent first), assigning sequential letters of the alphabet (*i.e.*, A, B, C, D) to identify each exhibit.

Section III - Determination/Settlement Agreement - This section will contain copies of the coordinator's determination and, where appropriate, a conciliation agreement.

Section IV - Investigator's Documents - This section will contain copies of all documents generated by and pertinent to the coordinator's handling of the complaint, including any analysis made by the coordinator (e.g., statistical tabulations, application of statistical techniques to a body of data, etc.) which will later become a part of the investigative report.

Section V - Evidence - This section will contain all documentary evidence relating to the case -- records, interview statements, etc. where the recipient or complainant submitted a document being used as an exhibit. The letter transmitting the document will be filed in Section II -

External Correspondence (with a copy of the cover letter), and its accompanying Analysis Form will be filed in this section.

Section VI - Internal Correspondence Exhibits - All internal correspondence will be included under this section. Internal correspondence exhibits will be entered chronologically so that the most current exhibit is on top, assigning sequential letters of the alphabet to identify each exhibit.

The Title VI Coordinator will initiate the investigation by first contacting the complainant by telephone within three working days of receiving the complaint. The complainant will be informed that he/she has a right to have a witness or representative present during the interview and can submit any documentation he/she perceives as relevant to proving his/her complaint. The alleged discriminatory service or program official will be given the opportunity to respond to all aspects of the complainant's allegations.

If, based on the investigation, the Title VI Coordinator concludes that there is no discrimination, the complaint will be dismissed.

Under appropriate circumstances, the Title VI Coordinator may seek comment(s) from the recipient, and/or complainant(s) on preliminary data analyses before making an initial finding concerning disparate impact.

A finding of disparate impact provides the recipient the opportunity to rebut the Title VI Coordinator's finding, propose a plan for mitigating the disparate impact, or "justify" the disparate impact. If the recipient successfully rebuts the Title VI Coordinator's finding, or if the recipient elects to submit a plan for mitigating the disparate impact, and, based on the review, the Title VI Coordinator agrees that the disparate impact will be mitigated sufficiently pursuant to the plan, the parties will be so notified. Assuming that assurances are provided regarding implementation of such a mitigation plan, no further action on the complaint will be required.

If the recipient can neither rebut the finding of the disparate impact nor develop an acceptable mitigation plan, the recipient may seek to demonstrate that he/she has a substantial, legitimate interest that justifies the decision to proceed with the action, notwithstanding the disparate impact. Even where a substantial, legitimate justification is offered, the Title VI Coordinator will consider whether it can be shown that there is an alternative that would satisfy the state's interest, while eliminating or mitigating the disparate impact.

8.4.2. Appeal Process

Complainant may appeal an investigative finding to the Commissioner of Department of Intellectual and Developmental Disabilities. The appeal to the Commissioner constitutes the final level in the department's internal complaint system.

Upon an appeal, the Title VI Director and the DIDD General Counsel will assist the Commissioner of Department of Intellectual and Developmental Disabilities in reviewing the matter and making determinations. Procedures can include, but are not limited to, discussing the complaint with the complainant and/or the alleged offender.

According to federal regulations, a complaint to the U.S. Commission on Civil Rights must be filed no later than 180 calendar days after the alleged discrimination occurred. Thus, to

accommodate sequential external complaint filing, should the complainant wish to file a complaint with the federal authority, the following schedule of time limits must be followed in the filing, appeal, and disposition of a complaint:

1. No later than thirty (30) calendar days after the alleged discrimination occurred—a complainant must file a written complaint within DIDD.
2. No later than thirty (30) calendar days after the written complaint is filed within DIDD—the Director of Civil Rights shall review and investigate the complaint and issue a written determination of findings, and, if there is a finding of Title VI violation, propose remedial action (information regarding appeal rights) shall also be provided at that time.
3. No later than twenty (20) calendar days after the Title VI Coordinator's written determination—the complainant may file a written appeal with the Commissioner of DIDD.
4. No later than thirty (30) calendar days after the appeal is filed with the Commissioner—the Commissioner shall review and investigate the complaint and issue a written determination in the matter.

If a complainant remains unsatisfied with the findings or the proposed remedial action, the complainant will still have time to file externally, with the U.S. Commission on Civil Rights, within the stated time limit of 180 calendar days.

Throughout the complaint process, it shall be the responsibility of the complainant and the Director of Civil Rights to ensure that DIDD's General Counsel has a complete record of all documents, proceedings, findings, appeals, and dispositions related to a complaint. The DIDD General Counsel and the Director of Civil Rights shall have responsibilities as repositories of such information, as well as, advisors to departmental authorities regarding complaints.

8.5. Service Provider Complaint Procedures

In accordance with the terms of all contracts, each professional service provider shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and service recipients, notices of nondiscrimination. Proof of nondiscrimination may require documentation of standard complaint processes (along with the records resulting from such) for both service provider employees and service provider program beneficiaries.

8.6. Retaliation

In accordance with Title VI of the Civil Rights Act of 1964 {45 C.F.R. Part 80.7(e)}, no DIDD personnel or service provider shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 or the Act, or because the individual has made a complaint, testified, assisted, or participated in any manner in a discrimination investigation, proceeding, or hearing.

9. COMPLIANCE REVIEWS

Purpose: Any department or agency shall conduct periodic reviews to determine compliance with the regulations by subrecipients. This section is for the purpose of identifying pre- and post-award procedures used by the department. Departments should monitor all subrecipients, to include grantees and contractors that provide a service to the beneficiary on behalf of the department.

9.1. Pre-Award Procedures - Assurances & Data Collection

9.1.1. Compliance Report

A statement that the department and its subrecipients shall make available any compliance report to be reviewed by THRC upon request;

DIDD and its subrecipients shall, upon request, make available to Tennessee Human Rights Commission Title VI compliance reports.

9.1.2. DIDD Subrecipients

List each sub-recipient that has signed "statement of assurances" provided by the department for the most recent FY.

On June 30, 2011, DIDD had 153 contracts (**APPENDIX D - DIDD Contracts**). The following is a summary of DIDD contracts by contract type:

Type of Contract	Contracts	Contract Amount
Delegated Authority (DPA, DA, DN, DR)	9	\$599,289,800.00
Education – Fee-for-Service Contract (ED)	4	\$331,193.00
Education – Grant College/University (EG)	3	\$116,809.00
Fee-For-Service Contract (FA)	62	\$85,565,461.42
Grant to Federal Agency or Local Government (GG)	5	\$772,820.00
Grant (GR)	66	\$48,151,382.33
Government Grant (GG)	2	\$67,500.00
Inter-Departmental Grant	1	\$312,000.00
Inter-Departmental Fee-For-Service	1	\$4,000.00

Beneficiary services are provided through a Direct Purchase Authority (DPA) in the amount of \$596,833,800.00, which is included under the Delegated Purchase Authority Section in **APPENDIX D**. DIDD has entered into a contractual agreement with approximately 368 service providers (subrecipients) statewide to provide home and community-based services. Service Providers are required to meet established standards for provider qualifications, performance, and state licensure; and are approved by DIDD and TennCare. A list of service providers is included in DIDD's Implementation Plan under **APPENDIX E - DIDD Service Providers FY 2011**

9.1.3. Statement of Assurances

Include excerpts of the contractual provisions prohibiting discrimination, which are agreed to by subrecipients of the department or agency;

All contract service providers must designate an agency Title VI Coordinator and assure that their respective agency will comply with all state and federal laws when the agency enters into contract or signs a provider agreement with DIDD. Contract service providers are also required to provide a Statement of Assurance that addresses nondiscrimination in the delivery of programs and services.

All DIDD Provider Agreements contain the following nondiscrimination statements:

Nondiscrimination. (D. 5) The Provider hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of any service referenced in and subject to this Agreement or in the employment practices of the Provider on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Provider shall show, upon request, proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

Limited English Proficient Persons. (D. 18) With regard to Limited English Proficient persons, the Provider shall comply with:

- (a) Presidential Executive Order 13166 of August 11, 2000 (65 FR 50121), and
- (b) Department of Health and Human Services "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (68 FR 47311 - August 8, 2003). **Reference APPENDIX F - DIDD Provider Agreement**

9.1.4. Pre-Award Assessment Reviews (Desk Reviews)

Attach a copy of any pre-assessment or self-survey provided by the department or agency to subrecipients. Include the number of pre-assessments or surveys reviewed by the department during the most recent FY.

DIDD Director of Civil Rights utilizes the State of Tennessee Service Provider Registration Form to conduct pre-assessment desk reviews. The purpose of this review is to monitor service provider ownership characteristics and to ensure that qualified persons are not denied benefits or services based on race, color, or national origin. (**Reference APPENDIX G – Vendor Registration Form**). During FY 2011, DIDD Director of Civil Rights reviewed eighteen (18) service provider registration forms. The Office of Civil Rights reviewed thirty-six (36) new provider applications. **Reference APPENDIX M – New Provider Applications.**

Ethnicity	Number of Applications	Number Approved
Non Minority	12	6
African American	11	2
Asian	2	2
Unknown	11	4

9.1.5. Pre-Award Field or On-Site Reviews

State the number of field reviews of subrecipients conducted during the most recent FY. If not applicable, then explain why the department does not conduct field or on-site reviews.

N/A. DIDD does not conduct pre-award on-site reviews. The department conducts post-awards on-site reviews and pre-award desk reviews.

9.1.6. Training

Describe any standards requiring a subrecipient of the department to provide training to its staff, to include the extent and content of training prior to the receipt of federal funding.

DIDD Service Provider Manual (Chapter 6.7) mandates all DIDD service provider executive directors or agency board chairpersons attend New Provider Orientation or review DIDD web-based New Provider Orientation materials, prepared by DIDD, within ninety calendar days of assuming office. During FY 2011, DIDD conducted two (2) New Provider Orientations training sessions.

FY 2011 New Provider Orientation Training Sessions

Training Date	Number of Participants
May 26, 2011	12
February 16, 2011	7

DIDD web-based New Provider Orientation training materials are available for viewing at the following location:

<http://www.tennessee.gov/DIDD/provideragencies/ProviderOrientationTraining/index.html>

There are three phases of minimum required training that must be completed by service provider staff involved in the provision of services to service recipients. Title VI training (core training) must be completed within sixty (60) days of employment. Staff may work alone with service recipients while completing core training courses.

9.2. Post-Award Procedures

Briefly discuss the procedures utilized by the department or agency to assess subrecipient compliance.

9.2.1. Annual Self-Surveys

Attach a copy of any annual compliance report, assessment or self-survey provided by the department or agency to subrecipients. Include the number of reports or surveys reviewed by the department during the most recent FY.

DIDD utilizes an annual Title VI Self-Survey to assess service provider compliance with the provisions of Title VI. DIDD Office of Civil Rights reviewed 171 Service Provider Title VI Self-Surveys during FY 2011. **Reference APPENDIX C - DIDD Self-Survey Report**

9.2.2. Field or On-Site Reviews

State the number of field reviews of subrecipients conducted during the most recent FY. If not applicable, then explain why the department does not conduct field or on-site reviews.

Agencies receiving funding from DIDD are subject to on-site monitoring visits. DIDD auditors conduct on-site programmatic and financial monitoring reviews. All day, residential and support coordination services are monitored on an annual basis by DIDD surveyors. Clinical services contract providers (nursing, behavioral support services, nutrition, speech and physical services, etc.) are monitored every three years.

The basic objective of service provider monitoring is to assess internal and operational controls to determine if further monitoring is necessary. If monitors detect deficiencies, the subject service provider must submit a corrective action plan.

DIDD Fiscal Accountability Review (FAR) Unit conducted 145 agency reviews during FY 2011. FAR reported one audit finding related to Title VI. The agency failed to submit its Title VI Self-Survey. A Corrective Action Plan was not submitted, as the agency's provider agreement was terminated for convenience in September 2010.

9.2.3 Training

Describe any standards requiring that a subrecipient of the department provide documentation of staff training and dates offered to its staff, to include the extent and content of the training

Office of Management and Budget (OMB) Circular A-133 - Audits of States, Local Governments and Non-Profit Organizations - requires the state to monitor activities of subrecipients and to ensure compliance with program and administrative requirements.

The required core monitoring areas are as follows: allowable activities, civil rights, allowable cost/cost principles, eligibility, matching, level of effort, earmarking, program income, cash management, equipment and real property management, period of availability of funds, procurement, suspension, debarment, real property acquisition and relocation assistance, reporting, and special tests and provisions.

The monitoring of a contract service provider classified as high or medium risk should include testing of the financial/program data and reporting. For high-risk contractors, the sample size should be larger than that of medium risk; and the level of testing should be more intense. The following are the basic objectives of high and medium risk monitoring:

- Test the reliability of internal controls.
- Verify that program objectives are being met.
- Verify that civil rights requirements are being met.
- Test the reliability of the service provider's financial and program reports.
- Test if costs and services are allowable and eligible.

DIDD Title VI compliance monitoring reviews include the following:

- nondiscrimination policies and the manner of their dissemination,
- communication with persons who have a sensory or speech impairment,
- communication with persons who have limited English proficiency,
- provisions of required notices and manner of providing notice to service recipients,
- employee training records, and
- Complaint process for alleged discrimination allegations.

9.3. Minority Representation

In the case of any program under which a department extends Federal financial assistance to any subrecipient with any other person or group, such subrecipient shall submit compliance reports to the department as may be necessary to enable the department to determine minority representation.

Federal Regulations, 42 U.S.C.A. 1396a (p) and 42 C.F.R., §438, require the monitoring of Medicaid funds awarded to service providers. The Department of Finance and Administration has chosen to implement this provision by the use of Disclosure of Ownership and Control Interest Form which is designed to collect the information required in 42 C.F.R. §455. CMS has approved the use of this method of monitoring service provider receipt of Medicaid funds. A full and accurate disclosure of ownership and financial interest is required. Direct or indirect ownership interest must be reported if it equates to an ownership interest of 5 percent or more in the disclosing entity. All State contract summary sheets contain contractor ownership characteristics.

9.3.1 U.S. Census Minority Firms Data

	TN	USA
Minority Firms 2007	545,469	27,097,236
Black-owned firms, percent, 2007	8.4%	7.1%
American Indian and Alaska Native owned firms, percent, 2007	0.5%	0.9%
Asian-owned firms, percent, 2002	1.6%	4.8%
Native Hawaiian and Other Pacific Islander owned firms, percent, 2007	0.1%	0.1%
Hispanic-owned firms, percent, 2007	1.6%	8.3%
Women-owned firms, percent, 2007		

Source U.S. Census Bureau: State and County Quick Facts.

9.3.2. FY 2011 DIDD Minority Service Providers

Ownership Characteristics	Number of Minority Service Providers	FY 2011 Funding	% of Funding
African American	47	\$45,988,978.66	8%
Asian	6	\$645,545.92	>1%
Hispanic	4	\$9,729,325.05	2%
Native American	2	\$3,838,975.81	>1%
National Origin	1	\$15,381.87	>1%
Total	60	\$60,218,207.31	10%
Non Minority	308	\$527,377,038.00	90%

Total Waiver Funding to DIDD Service Providers: \$587,595,245.30

Reference APPENDIX H – DIDD MINORITY SERVICE PROVIDERS

9.3.3. FY 2011 DIDD Certified Minority Contractors

The following contractors have completed the certification process through the Governor's Office of Diversity Business Enterprise (TN Go-DBE). Go-DBE is the central point of contact to attract and assist minority owned, women owned, service-disabled veteran owned and small business enterprises.

Ownership Characteristics	Number of Certified Minority Contractors	FY 2011 Funding	% of Funding
African American	5	\$1,163,968.65	31.57%
Asian	5	\$407,193.29	11.04%
Hispanic	1	\$607.15	0.02%
Native American	1	\$82,777.74	2.25%
Female	10	\$1,943,658.56	52.72%
Small Business (< 30 employees)	6	\$88,843.15	2.41%
Total	29	\$3,687,048.58	100%

Reference APPENDIX K - DIDD CERTIFIED MINORITY CONTRACTORS

Reference APPENDIX L - DIDD SMALL BUSINESS, WOMEN OWNED, MINORITY VENDORS

9.4. Public Notice and Outreach

Subrecipients must identify methods and/or procedures utilized for public outreach.

DIDD monitors all subrecipients and/or contractors concerning the dissemination of information about the following to the public:

- (i) Nondiscrimination policy,
- (ii) Programs and services,
- (iii) Complaint procedures, and
- (iv) Minority participation on planning boards and advisory bodies.

9.5. Procedures for Non-Compliance

Procedures or steps taken to first seek voluntary compliance whenever a subrecipient is determined to be in noncompliance.

DIDD recognizes that enforcement with regard to Title VI must be, at least, two-fold. Since responsibilities are carried out both through departmental administration and through service provider contracts, enforcement processes must be tailored to each.

With regard to departmental employees, standard state personnel regulations governing employee conduct are considered adequate for purposes of enforcement. Nevertheless, this process must be coupled with continuously improving communication directed to supervisors and non-supervisors. Further, Title VI enforcement elements will be added to the department's Strategic Plan so that there is more priority and accountability process with regard to implementation.

Regarding contract service providers, DIDD is committed to improving all aspects of contract management. In doing so, special attention will be focused on not only the requirement and encouragement of Title VI compliance but also its enforcement. Current processes for compliance include attempting to obtain voluntary compliance, taking action to mandate compliance, and seeking termination of federal/state funding.

10. COMPLIANCE/NON-COMPLIANCE REPORTING

Purpose: *Compliance records and other information are designed to show compliance with Title VI and should be maintained and reported on a regular basis. Each department needs to furnish compliance reports to THRC upon request.*

10.1. Title VI Compliance Report

List any federal or state departments/agencies (other than THRC) to which the department or agency furnishes or shares Title VI compliance reports. If none, state that the department does not furnish or share Title VI compliance reports to any other state or federal entities.

N/A. DIDD does not furnish or share Title VI compliance reports to any other state or federal entities.

10.2. Federal Regulations

Identify and list any and all Title VI federal reporting requirements which impact the department as a recipient by citing the applicable Code of Federal Regulations (CFR) citation and/or federal departmental circular that governs each program, activity or federal funds. If none, please state "N/A" and provide an explanation.

N/A. There are no specific annual federal Title VI reporting requirements. DIDD is a sub-recipient of Section 1915(c) Home and Community Based Services (HCBS) Waiver funds from the U.S. Department of Health and Human Services Centers for Medicaid and Medicare Services. Section 1915(c) of the Social Security Act (the Act) authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a state may offer Home and Community-Based Services (HCBS) to state-specified group(s) of Medicaid beneficiaries who would otherwise require services at an institutional level of care. This provision was added to the Act by the Omnibus Budget and Reconciliation Act of 1981 (Pub. L. 97-35, enacted August 13, 1981) (OBRA'81) (with a number of subsequent amendments).

Regulations were published to effectuate this statutory provision, with final regulations issued on July 25, 1994 (59 FR 37719).

11. TITLE VI TRAINING

Purpose: Title VI regulations require departments and agencies to provide civil rights training for staff. Periodic training in civil rights should be designed to develop awareness and sensitivity in carrying out federally funded programs and activities.

11.1. DIDD Staff Training

Describe Title VI training program for department staff and list the following:

- The total number of staff of the department;
- The actual number and percentage of staff trained; and
- Dates that training was offered (include an agenda).

DIDD employees receive initial and annual (refresher) Title VI training. A total of 2,439 DIDD employees received either initial or annual (refresher) Title VI training during FY 2011. Title VI training is available in the form of online training and seminars to both central office and regional office staff responsible for ensuring Title VI compliance. Training is aimed at educating new and existing staff in the area of prohibited practices, Title VI compliance; civil rights, and limited English proficiency.

Location	Type of Training	Number of Employees Trained	% Compliance	Training Dates
DIDD Central Office	Initial Training	217	100%	NA – Online Training
DIDD Central Office	Annual Refresher	211	98%	NA – Online Training
East TN Regional Office	Initial Training	136	100%	NA – Online Training
East TN Regional Office	Annual Refresher	154	100%	NA – Online Training
West TN Regional Office	Initial Training	139	94%	NA – Online Training
West TN Regional Office	Annual Refresher	349	94%	NA – Online Training
Middle TN Regional Office	Initial Training	28	100%	NA – Online Training
Middle TN Regional Office	Annual Refresher	126	100%	NA – Online Training
Greene Valley Dev Ctr	Initial Training	0	N/A	
Greene Valley Dev Ctr	Annual Refresher	1079	100%	113 – Sessions Classroom training dates: 7/7/2010 7/14/2010 7/16/2010

				7/21/2010
				7/22/2010
				7/28/2010
				7/29/2010
				8/4/2010 8/5/2010
				8/6/2010
				8/10/2010
				8/11/2010
				8/13/2010
				8/17/2010
				8/18/2010
				8/18/2010
				8/25/2010
				8/31/2010
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				9/2/2010 9/8/2010
				9/8/2010 9/9/2010
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				05/23/2011
				5/25/2011
				06/1/2011
				6/3/2011
				6/8/2011
				6/15/2011
				6/15/2011
				6/22/2011
				6/23/2011
				6/29/2011

Title VI Training curriculum is available upon request. Title VI Training PowerPoint presentation is available for viewing at the following website:

<http://www.tn.gov/DIDD/civilrights/titlevi/titlevittraining.ppt>

DIDD web-based training is conducted through the College of Direct Support (CDS). CDS is one of only five accredited curricula for certifying Direct Support Professionals (DSP) who provide daily hands-on care giving services for individuals receiving services through DIDD. Information on CDS can be found on their website at: <http://www.collegeofdirectsupport.com> which explains that the University of Minnesota developed this curriculum and continues to update and add additional coursework some of which is aimed at those who work with the aged and in the mental health field. DIDD Office of Civil Rights created the Title VI Training module for use by DIDD service providers and DIDD staff. DIDD Office of Civil Rights is in the process of updating the department's Title VI training curriculum. The new curriculum will include the following modules:

- ✓ Civil Rights - Overview and History
- ✓ Title VI of the Civil Rights Act of 1964
- ✓ Title VI Prohibited Practices
- ✓ Title VI Compliance
- ✓ Limited English Proficiency (LEP)
- ✓ How to Report a Title VI Complaint

There are approximately 134 DIDD service providers receiving Title VI training through the College of Direct Support. Approximately 16,295 (approximately 83 percent) service provider employees completed web-based Title VI training during the time period July 1, 2010 – June 30, 2011 in the College of Direct Support system.

Service Provider Title VI Training Summary

Training	Total Assigned	Total Completed	% Completed
Title VI - Initial	10,829	8,490	78.40%
Title VI - Refresher	8,707	7,805	89.64%
Total Title VI Training	19,536	16,295	83.41%

11.2. Method Used To Verify Title VI Training

Describe department's method to verify that a member of staff has received Title VI training.

As stated in Section 9.1.6. Training, there are three phases of minimum required training that must be completed by Department of Intellectual and Developmental Disabilities (DIDD) staff and DIDD service provider staff involved in the provision of services to individuals receiving DIDD services. Title VI core training must be completed within sixty (60) days of employment. Staff may work alone with beneficiaries while completing core training courses. DIDD uses College of Direct Support to verify and monitor DIDD staff and service provider staff web-based Title VI training.

Department of Intellectual and Developmental Disabilities selected College of Direct Support to provide a 24/7 web-based training platform in order to provide a better, more consistent, statewide training to service provider staff and state employees. Over the past four years, DIDD has offered Title VI training using this web-based platform as well as classroom formats. DIDD service providers are not required to use the web-based training. Agencies that use the training are able to run comprehensive reports and transcripts by learner or staff person and by departments within their respective facilities. DIDD has global administrator rights and can run reports on multiple facilities/agencies.

11.3. Valuing Diversity and Multicultural Understanding

Training will be made available to DIDD staff on the importance of valuing differences, cultural sensitivity, encouraging positive interactions between and among diverse populations, and maximizing the benefits of a multicultural perspective.

11.4. Technical Assistance

In order to appropriately challenge Department of Intellectual and Developmental Disabilities' service providers to join the department in seeking to achieve the intents of and comply with Title VI of the Civil Rights Act of 1964, DIDD program staff must provide service providers with information and support. Technical assistance will include, but is not limited to, the following:

Title VI Manual for Local Title VI Coordinators
Service Provider Orientation
Staff Training
Resource Material
Complaint Resolution

12. PUBLIC NOTICE AND OUTREACH

Purpose: *Departments should make certain that eligible persons who have been previously or traditionally deprived of equal opportunity are adequately encouraged to participate fully in agency programs and have access to planning boards and advisory bodies. Title VI regulations require agencies to make available and distribute Title VI regulations, guidelines and policy for use by employees, applicants for federal assistance, subrecipients, beneficiaries, and other interested persons.*

12.1. Outreach/Communication

Identify how the department or agency disseminates information about the following to its clients, constituents and the public:

- (i) Title VI implementation plan;
- (ii) Complaint procedures;
- (iii) Nondiscrimination policy;
- (iv) Programs and services; and,
- (v) Minority participation on planning boards and advisory bodies.

DIDD will take appropriate steps to communicate the department's Title VI Implementation Plan and complaint resolution process to departmental employees, service providers, and beneficiaries of DIDD services. It is imperative that all entities to which the Department of Intellectual and Developmental Disabilities subcontracts federal funds are made aware of the importance of compliance with Title VI, as well as, the process for complaint resolution. It is further imperative that protected beneficiaries are encouraged to participate in agency services and are informed of DIDD's Title VI Implementation Plan, complaint resolution process, and the rights afforded to them by Title VI of the Civil Rights Act of 1964. The following methods will be used to communicate DIDD's Title VI Implementation Plan to employees, service providers, and beneficiaries of DIDD services:

12.2. Employee Notification

- Nondiscrimination statement as well as notification about Title VI complaint process will be posted in conspicuous places throughout DIDD workspaces.
- New Employee Orientation Training Session offered by DIDD Human Resources and provider agencies' Human Resources/Training Units will address Title VI regulations, guidelines, complaint process, and policy.
- DIDD Title VI complaint process will be discussed and explained during in-service training.

12.3. Service Provider (Subrecipient) Notification

All grants, contracts and service provider agreements currently include language which stipulates that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the delivery of the program for which the funds will be used on the grounds of race, color, or national origin.

- DIDD service providers receive Title VI information during new service provider orientation training detailing Title VI requirements.
- Service providers will be expected to develop a complaint resolution process to govern the program(s) for which DIDD funds will be used.
- Each application for funding must include a written assurance that the program(s) for which DIDD funds will be used will be carried out in a manner so as to comply with Title VI requirements.
- All contract service providers shall designate an employee, within their respective agency, who will be responsible for handling Title VI compliance and complaints.

12.4. Notification to Beneficiaries

All people entering DIDD's service system will be informed of their individual rights and receive written documentation of their rights, including Title VI and other rights relating to nondiscrimination, prior to receiving services. During the intake process, DIDD intake staff will explain, read, or provide a translated version of individual rights if the person does not understand, is unable to read, or speaks a language other than English. If a person has a guardian, conservator, involved family member, or has designated someone he/she wishes to receive a copy of the rights, a copy and any necessary explanations or translations will be provided to these individuals as well.

- Effort will be made to make Title VI information available to beneficiaries and other interested persons with limited English proficiency.
- Pamphlets shall be published informing beneficiaries about Title VI, and their rights under Title VI, as well as Title VI complaint process.
- All service providers shall be required to post, in conspicuous places throughout the agency, notices of the Title VI and their complaint process in a conspicuous location available to beneficiaries and the general public.

12.5. Public Notification

DIDD Director of Civil Rights will continue to work with DIDD Communications Unit to include Title VI information and complaint process on the department's website.

12.6. DIDD Advisory Boards and Committees

List and describe any internal and external advisory boards or bodies for the department or agency.

12.6.1 Statewide Planning and Policy Council

Tennessee Code Annotated §33-5-601 authorizes the Department of Intellectual and Developmental Disabilities to create a statewide planning and policy council to assist in planning a comprehensive array of high quality prevention, early intervention, treatment, and habilitation services and supports; and to advise the department on policy and budget requests, and provide assistance with developing and evaluating services and supports. The Commissioner of DIDD is in the process of accepting nominations for DIDD's Statewide Planning and Policy Council. All appointments will be made by December 30, 2011.

When constituted, the statewide planning and policy council shall be composed of not less than, eleven (11) members, not including ex officio members. The governor shall appoint the chair of the council. The speaker of the Senate and the speaker of the House of Representatives shall each appoint one (1) legislator as a member of the council. The Commissioner of the Department of Intellectual and Developmental Disabilities shall serve, ex officio, as secretary to the council and, if the chair is not present at a meeting, shall designate a member to serve as chair for the meeting. The governor is ex officio member of the council and may appoint representatives of state agencies as ex officio members of the council. The governor shall appoint one (1) at-large representative.

The Commissioner of the Department of Intellectual and Developmental Disabilities shall appoint five (5) members to represent intellectual and developmental disabilities, of which, two (2) shall be beneficiaries or family members of beneficiaries; one (1) shall be a representative for children; one (1) shall be a intellectual and developmental disabilities service provider; and one (1) shall represent others affected by intellectual and developmental disability issues. Additionally, the Commissioner of Intellectual and Developmental Disabilities shall appoint one (1) representative for elderly service recipients, and, at least, one (1) at-large representative. A majority of the council's membership shall consist of current or former beneficiaries and members of beneficiaries' families.

DIDD Statewide Planning and Policy Council shall meet quarterly at a place designated by the chair and may meet more often upon the call of the chair or a majority of the members. Appointments to the council shall be three (3) years; except the chair and members appointed by the speakers shall have terms of two (2) years. An appointee may be removed for failing to attend, at least, one half (1/2) of the scheduled meetings in any one-year period or for other good cause.

Minority Participation: Appointments Pending

12.6.2 DIDD Advisory Council

DIDD Advisory Council is comprised of consumers, family members, conservators, service providers, advocates, and DIDD and TennCare staff. Advisory Council members are appointed by the Commissioner of DIDD. The group is scheduled to meet on a quarterly basis. Topics of discussion include service delivery, system changes, and policy development. The purpose is for all stakeholders to be represented and feel a sense of ownership and pride in DIDD's service

delivery system. A list of DIDD Advisory Council members is posted on the department's website.

http://www.tn.gov/didd/advisory_council/members.html

Reference APPENDIX I – DIDD Advisory Council Members

Minority Participation: 10 percent minority participation

12.6.3. Human Rights Committee

Human Rights Committee (HRC) serves as an advisory committee to the regional director or executive directors/chief executive officers. The committee's function is to review program activities to ensure that human and civil rights of persons receiving services through the Department of Mental Retardation Services are not neglected or abused. Such reviews include, but should not be limited to, behavior management programs, agency practices, policies, and activities that impact individual rights.

All HRCs will be composed at a minimum of four (4) and not to exceed a maximum of six (6) members. HRC membership shall include the following:

- 1) A community representative who serves as the chairperson,
- 2) A minimum of one (1) not to exceed a maximum of three (3) community representatives from relevant professions (e.g., clergy, law, psychology, psychiatry, behavior analysis, pharmacy, social work, counseling or medicine), at least one who has experience with human rights issues,
- 3) A minimum of one (1) family member of a person receiving services from a provider in the region or from a provider involved in forming the local committee, and
- 4) A minimum of one (1) person receiving services from a provider within the region or from a provider involved in forming the local committee.

In addition to its advisory role concerning the rights of the people served, in those limited situations where HRCs have the authority to approve restrictions, HRC's function is to ensure that rights limitations are temporary in nature, and that they occur in very specifically defined situations. The functions of a HRC are as follows:

- 1) Review, approve, monitor or deny all behavior support plans (BSPs) that include restrictive interventions.
- 2) Review psychotropic medication use, time-out devices or other aversive techniques.
- 3) Review and evaluation of BSPs utilizing restraint or protective equipment a minimum of every ninety (90) calendar days.
- 4) Review and approve any proposed or emergency right restrictions and restraints not contained in a BSP.
- 5) Review and make recommendations regarding complaints/issues received pertaining to potential human rights violations.

- 6) Provide technical assistance to providers regarding policies and procedures affecting the service recipient's rights or the ability of service recipients to exercise rights.
- 7) Review and make recommendations regarding research proposals or academic projects involving service recipients to ensure that implementation of the proposal/project will not result in human rights violations. and
- 8) Analyze trends relating to human rights.

12.6.3.a. Regional HRC

Each grand region of the State has a Regional HRC. Regional Directors are responsible for initial appointments of Regional HRC members and for appointments of replacement members based on recommendations from the Regional HRC or TennCare. Regional HRC members shall be individuals who are familiar with people with disabilities and have relevant professional or personal experience which contributes to their role as an HRC member. Regional HRCs are responsible for hearing appeals of Local HRC decisions. Regional HRCs are also responsible for providing support to local committees and for providing technical assistance to local committees when requested by the Regional Director or designee and when requested by the Local HRC or provider executive director/chief executive director responsible for oversight of the Local HRC. Regional HRCs serve as an advisory committee and review DIDD policies and procedures relating to human and civil rights. The DIDD Regional Office is responsible for providing adequate staff to administratively support Regional HRCs. DIDD Regional Directors are responsible for operational oversight of Regional HRCs.

Minority Participation: **East Tennessee Region - No minority participation**
 Middle Tennessee Region - 25 percent minority participation
 West Tennessee Region - 14 percent minority participation

12.6.3.b. Local HRC

Local HRCs may conduct HRC business for a single DIDD service provider or a group of providers. Local HRCs must be authorized to perform HRC functions by the DIDD Regional Director. For Local HRCs, the provider executive director(s)/chief executive officer(s) is responsible for appointment of HRC members. Local HRC members shall be individuals who are familiar with people with disabilities and have relevant professional or personal experience which contributes to their role as an HRC member. Provider(s) involved with a Local HRC are responsible for providing adequate staff to administratively support the committee. If a Local HRC has been formed by a single provider, the provider executive director/chief executive officer is responsible for operational oversight and administrative support of the HRC. If multiple providers jointly form a Local HRC, the executive directors/chief executive officers shall determine which of the executive directors/chief executive officers are responsible for operational oversight and administrative support of the HRC. All Local HRCs must be authorized by the Regional Director prior to performing HRC functions for DIDD beneficiaries. The authorization process is as follows:

- 1) The provider executive director/chief executive officer who will be responsible for operational oversight of the Local HRC will submit a written request for

authorization of a Local HRC to the Regional Director, including a roster of proposed committee members, and

- 2) If all requirements are met, the Regional Director will provide written notification that the Local HRC is authorized to perform HRC functions.

Minority Participation – Unknown

12.6.4. Council on Developmental Disabilities (Council)

Councils on Developmental Disabilities were created through the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) in 1970 to "engage in advocacy, capacity building, and systemic change activities that are consistent with the purpose of the DD Act; and contribute to a coordinated, consumer and family-centered, consumer and family-directed, comprehensive system of community services, individualized supports and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive and be integrated and included in all facets of community life."

Councils are expected to work collaboratively with other entities funded under the DD Act, including the Protection and Advocacy systems, and the University Centers on Excellence in Developmental Disabilities (UCEDDs) in the State. There are 55 State Councils on Developmental Disabilities, one in each state, the District of Columbia, Puerto Rico, Guam, the Northern Marianas, and American Samoa. Council members are appointed by governors to represent and advocate for people with developmental disabilities. Council Members serve in a volunteer capacity. More than 60 percent of these volunteers must be people with developmental disabilities or family members.

The Tennessee Council on Developmental Disabilities (Council) fulfills the requirement of the federal Developmental Disabilities Act for a citizen council to provide expertise on disability issues and service system trends, and to help build capacity of government and communities to better support Tennesseans with developmental disabilities. Council members include Tennessee citizens who have a developmental disability, family members of citizens who have a developmental disability, state agencies, public and private providers, and universities. The Council conducts a comprehensive review of programs available to citizens with developmental disabilities, and then convenes partners and stakeholders to develop innovative and cost effective ways to improve policies and programs. Council initiatives promote the independence, productivity and inclusion of Tennesseans with developmental disabilities in their communities.

The Council has a long history of improving systems and services to Tennesseans with developmental disabilities in the areas of child care services, family support services, housing and homeownership opportunities, supported and customized employment services, public education programs, centralized disability resource information, and assistance to Hispanic and other underserved citizens.

The Council is an independent office in state government and has administrative agreements with the Department of Intellectual and Developmental Disabilities and the Shared Services Solutions Office in Finance & Administration for transaction and administrative support services. Councils on Developmental Disabilities are located in every state and U.S. territory.

A list of members of the Council on Developmental Disabilities is posted on the Council's website.

<http://www.tn.gov/cdd/members.shtml>

Minority Participation: 26 percent minority representation

12.7. Minority Participation on Planning and Advisory Boards

In order to promote diversity and to effectuate its commitment to the provision of Title VI of the Civil Rights Act of 1964, DIDD will continue to consider and emphasize diversity in the make-up of departmental advisory boards, planning committees, and work groups. DIDD affirms its commitment to ensuring that eligible individuals who have traditionally been deprived of equal opportunities are adequately encouraged to participate fully in departmental programs and have access to planning councils and advisory committees.

DIDD will identify and contact individuals, organizations and representatives of protected beneficiary groups to enlist their participation in DIDD statewide planning council, advisory board, or committee. Whenever a planning or advisory council is an integral part of the department's services or the board is required by state or federal statute, the Commissioner (or his designee) will take such steps as necessary to ensure that protected beneficiaries are notified of the existence of such boards and are provided equal opportunity to participate as members.

12.8. Protected Beneficiary Representatives Involvement

DIDD has contracted with The Arc of Tennessee to develop a program, "People Talking to People (PTP): Building Quality and Making Change Happen," through which face-to-face interviews are conducted with individuals with intellectual disabilities and persons who know them well. PTP employs twenty-seven (27) people across Tennessee who work part-time as interviewers. Twenty of the twenty-seven interviewers have diagnosed disabilities including Cerebral Palsy, Dilated Cardio Myopathy, general disability from military service, general Mental Health disability, Intellectual Disability, Polio, Spinal Muscular Atrophy, and Traumatic Brain Injury. PTP is a simple, yet innovative, program to assure quality services for the people who receive them. Interviewers and the people they interview appear to communicate more openly and honestly because they both, at least, share "disability." PTP is leading by example to promote a more inclusive and integrated local and statewide community, while continuing to better the support service system as a whole. PTP interviewers use the Participant Experience Survey (PES), an instrument developed by the U.S. Department of Health and Human Services Centers for Medicaid and Medicare Services contractor to gather information on four primary areas of the person's experiences: choice and control; respect and dignity; access to care; and community integration and inclusion.

DIDD will continue to monitor this contract and review consumer satisfaction surveys to assess service recipient needs, concerns, and to obtain feedback and suggestions for program improvements. PTP interviewers also participate in beneficiary-directed focus groups.

The purpose of the beneficiary-directed focus groups is to assess program needs, and to learn and understand concerns of protected beneficiary groups, and to improve program services. Compliant Resolution Section under DIDD Office of Civil Rights is hosting focus groups for

persons supported in Chattanooga, Greeneville, Memphis and Nashville. The Focus groups are open to all persons supported who wish to create a forum in which they can make suggestions for improving their services and supports. Focus group members are in the planning stages of creating a training video for Direct Support Staff. Approximately seventy-five (75) people are participating statewide. Attendance and participation is open-ended.

Minority Participation: 18 percent minority participation (Focus Groups)

12.9. DIDD Title VI Implementation Plan Coordinating Committee

In order to promote diversity and to obtain input from protected beneficiary groups affected by Title VI, DIDD has established an internal interdisciplinary Title VI coordinating committee. DIDD Title VI Coordinating Committee reviews and provides requested information for DIDD's Title VI Implementation Plan on an annual basis. DIDD's Title VI Coordinating Committee includes representatives from Contract Services, Budget, Information Technology Unit, Operations Unit, Human Resources, and Legal Services.

12.10. Outreach Activities

Does the agency utilize news media and other ways to broadcast and publish federally assisted programs administered by the department? If so, describe. Where minority input is solicited, describe how this input is documented? If there is no documentation of minority input, are there any plans for the department to initiate committees or advisory bodies that solicit minority input?

During FY 2011, the department's LEP Coordinator provided the following outreach activities:

1. Utilized new media to provide Autism information to Spanish media (newspapers, TV, and radio).
2. Provided public awareness activities with the collaboration of Spanish Media in Middle and East Tennessee Regions:
 - Scheduled twenty-nine (29) guests from Camino Seguro Middle agencies to appear on a community outreach talk show hosted by radio 2"La Sabrosita" WNGC 810 AM.
 - Collaborated with Dr. Coral Getino, a Camino Seguro partner from HoLa Hora Latina in Knoxville, who organized twenty-four (24) interviews from agencies in Camino Seguro East Tennessee Region at radio station "La Lider" WKZX 93.5 FM in Lenoir City, Tennessee (Loudon County).

12.11. Notification of Contractual Opportunities

List the methods used by the department or agency to inform the public about the process for obtaining grants or bidding on contracts of which the agency has oversight.

State agencies and departments are required to establish and (strive) to achieve departmental or agency level internal goals for actively soliciting events (formally Invitations to Bid (ITB) and proposals from certified minority owned, woman owned, service-disabled veteran owned and small businesses enterprises.

DIDD is committed to improving all aspects of contract management. To this end, special attention will be focused on monitoring and increasing notification of potential funding opportunities for eligible persons who have traditionally been deprived of equal opportunities. DIDD will continue to follow the state's contract and bidding procedures. The department will also partner with the Governor's Office of Diversity Business Enterprise (TN Go-DBE). Go-DBE is the central point of contact to attract and assist minority owned, women owned, service-disabled veteran owned, and small business enterprises. The goal of this office is to increase the number of certified minority, women owned, small business and service-disabled veteran owned businesses desiring to compete successfully in state procurement activity. Certification as a diversity business enterprise provides greater exposure for opportunities with the state of Tennessee and DIDD. The names of all certified businesses appear in the Go-DBE Directory for state agencies and departments to utilize in meeting their agency internal goals. DIDD will consult GO-DBE when developing procurement opportunities and lists of potential vendors. DIDD will also forward to GO-DBE a list of DIDD service providers who may qualify for GO-DBE certification.

On July 1, 2010, "Tennessee Service-Disabled Veterans" became part of the state's diversity program. Service-disabled veteran owned businesses will have the ability to register for certification via the new TN Go-DBE system.

According to TN GO-DBE, DIDD met and exceeded its departmental diversity businesses goal. TN GO-DBE further reports, the total amount of FY 2011 contracts to certified minority businesses was the highest amount DIDD has achieved with diversity businesses within the last three years.

DIDD Director of Civil Rights and Director of Contract Services will meet with Go-DBE staff to set the department's internal businesses diversity goals for FY 2011-12 in October 2012.

Reference APPENDIX J - DIDD CERTIFIED MINORITY CONTRACTORS

13. EVALUATION PROCEDURES

Purpose: Evaluation enables the department or agency to reach the ultimate purposes or ends for which the programs or activities exist. The execution of this section will enhance overall compliance by the department and maximize the number of subrecipients in compliance with civil rights requirements through preventive outreach, technical assistance, and the monitoring of beneficiaries and provide a timeline for meeting each goal.

The following goals provide a foundation and framework for Department of Intellectual and Developmental Disabilities' Title VI implementation strategies and performance measures. Future plans will focus on performance measures and the department's progress in meeting the stated goals and objectives.

Goal 1: Ensure equality in the delivery of services to DIDD beneficiaries.

Objective 1.1: Increase beneficiaries' knowledge about individual rights under Title VI of the Civil Rights Act of 1964.

Strategies:

- 1.1.1 Disseminate Title VI information during consumer satisfaction survey activities by June 30, 2012.
- 1.1.2 Conduct random quarterly on-site monitoring (FAR) visits to service provider agencies by June 30, 2012.
- 1.1.3 Develop and disseminate DIDD's nondiscrimination policies and procedures to department and service provider personnel by June 30, 2012.
- 1.1.4 Review, update and disseminate DIDD's Title VI information to service recipients by June 30, 2012.

Objective 1.2: Improve the delivery of beneficiary services through the use of technology.

Strategies:

- 1.2.1 Coordinate with DIDD Information Technology (IT) Unit to include and update Title VI information and complaint process on the department's website by June 30, 2012.
- 1.2.2 Review service recipient data on a monthly basis using DIDD Community Service Tracking System.
- 1.2.3 Work with DIDD IT Unit to update service provider tracking information by June 30, 2012.

Objective 1.3 Strengthen agency compliance with and enforcement of Title VI and other civil rights laws.

Strategies:

- 1.3.1 Develop web-based Title VI training curriculum in Edison by June 30, 2013.
- 1.3.2 Update DIDD Title VI training curriculum by June 30, 2012.
- 1.3.3 Conduct pre and post-award compliance reviews by June 30, 2012.

Goal 2: Enhance effective implementation of Title VI and other nondiscrimination laws.

Objective 2.1 Increase knowledge and awareness of state and federal statutory non-discriminatory requirements.

Strategies:

- 2.1.1 Offer workshops and technical assistance opportunities to DIDD contract service providers and DIDD staff on Title VI and other federal nondiscrimination laws by June 30, 2012.

- 2.1.2 Conduct two (2) joint regional training sessions with other state agencies responsible for Title VI implementation and compliance (i.e., TennCare, Department of Children Services, Department of Health, Department of Human Services and Department of Education) by June 30, 2013.

Objective 2.2 Strengthen relationships with federal agencies responsible for Title VI compliance.

Strategies:

- 2.2.1 DIDD Office of Civil Rights staff will attend three (3) Title VI or other nondiscrimination training sessions conducted by state or federal agencies by June 30, 2012.
- 2.2.2 DIDD Director of Civil Rights will join and actively participate in Civil Rights Association, if available.

Goal 3: Establish a systematic and ongoing public involvement and awareness process that engages beneficiaries, family members and service providers.

Objective 3.1 Develop procedures to improve outreach to protected beneficiary groups.

Strategies:

- 3.1.1 DIDD Office of Civil Rights will conduct quarterly focus groups with protective beneficiaries to share information and exchange ideas on improving Title VI compliance.
- 3.1.2 DIDD Office of Civil Rights staff will attend community meetings and forums relating to nondiscrimination or diversity by June 30, 2012.

Goal 4: Expand economic opportunities to all Tennesseans.

Objective 4.1 Increase contract and procurement opportunities for qualified service providers representing protected beneficiary groups.

Strategies:

- 4.1.1 DIDD Office of Civil Rights Director will work with DIDD's provider recruitment staff to streamline the service provider application process by June 30, 2012.
- 4.1.2 DIDD Office of Civil Rights will continue to partner with the Governor's Office of Diversity Business Enterprise to identify and expand business opportunities for DIDD service providers from protected beneficiary groups by June 30, 2012.
- 4.1.3 DIDD Office of Civil Rights staff will identify and contact community agencies and organizations representing protected beneficiary groups (i.e., Vanderbilt Kennedy Center, Urban League, Hispanic Chamber of Commerce) by June 30, 2012.

Goal 5: Maximize the number of recipients receiving DIDD's services.

Objective 5.1 Reduce barriers to services.

Strategies:

- 5.1.1 Translate Title VI information and material into languages and formats accessible to under served populations.
- 5.1.2 Develop a plan to notify beneficiaries of the availability of free language assistance by June 30, 2012.
- 5.1.3 Produce user-friendly educational and informational materials and make them available to service providers and DIDD's staff by June 30 2012.

14. RESPONSIBLE OFFICIALS

Purpose: To designate a location within the implementation plan where the responsible officials are listed.

This plan builds upon what DIDD has done to improve its operations. DIDD Title VI Implementation Plan takes a proactive approach to preventing discrimination by focusing on four major areas: training, technical assistance, outreach, and monitoring. The best way to combat discrimination is to prevent it from happening. With the promulgation of this implementation plan, DIDD will initiate a comprehensive effort to communicate the agency's commitment to and compliance with Title VI of the Civil Rights Act of 1964.

James M. Henry, Commissioner
Department of Intellectual and Developmental Disabilities
500 Deaderick Street, 15th Floor Andrew Jackson Building
Nashville, Tennessee 37243

Brenda D. Clark, Director
Office of Civil Rights
Department of Intellectual and Developmental Disabilities
500 Deaderick Street, 15th Floor Andrew Jackson Building
Nashville, Tennessee 37243